

<p>1 2 APPEARANCES: 3 4 5 MARIO H. CAPOGROSSO, ESQ. 6 21 Sheldrake Place New Rochelle, New York 10804 7 Plaintiff Pro Se 8 9 STATE OF NEW YORK, OFFICE OF THE ATTORNEY 10 GENERAL, LETITIA JAMES 28 Liberty Street 11 New York, New York 10005 Attorneys for Defendants 12 BY: JAMES THOMPSON, ASSISTANT ATTORNEY GENERAL 13 14 ALSO PRESENT: Howard Brodsky, Videographer 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 126</p> <p>1 M.H. Capogrosso 2 on a case and you don't show up on that 3 case, your reputation has been -- has 4 been damaged. It's been taken away. 5 Nobody is going to trust you anymore. 6 Nobody is going to hire you on another 7 case especially in Brooklyn if you take 8 their money and you don't show up. The 9 worst thing you can do to a Brooklyn 10 motorist or a Brooklyn client is take 11 their money and not show up. 12 I've dealt with the Brooklyn 13 community for 10 years. I've had threats 14 against my safety from the Brooklyn 15 community when I don't show up for a case 16 and I took their money. It's the worst 17 thing you can do is not show up on a case 18 and you take their money. 19 These are all cab drivers 20 that -- a lot of these cases. They're 21 all business -- they're all working men 22 for a living and you can't take their 23 money and not show up. 24 Now my reputation for 25 showing up in a courthouse in the</p>
<p>1 2 M.H. Capogrosso 3 MR. VIDEOGRAPHER: The time 4 is 11:48. We are on the record. 4 EXAMINATION BY 5 MR. THOMPSON: 6 Q So thank you, 7 Mr. Capogrosso. You can see we are back 8 looking at Exhibit 1; correct? 9 A Yes. 10 Q And we are at page 4 of the 11 breakdown of your damages. You see item 12 number 4 which talks about compensatory 13 damages to the loss and resultant damages 14 to your legal reputation in the Brooklyn 15 community. You see that, correct, 16 Mr. Capogrosso? 17 A I do, yeah. 18 Q And you estimated damages as 19 5 times the value of 15 months of your 20 revenue; is that correct? 21 A Yes. 22 Q So how did you arrive at 23 that figure? 24 A Well, your reputation as an attorney is paramount. If you take money</p>	<p>Page 127</p> <p>1 M.H. Capogrosso 2 Brooklyn community has been -- has been 3 just -- has been ruined. I can't tell 4 you how it's been ruined. Who's going to 5 hire me on a case again? That's how I 6 got that number. 7 Q So but when you -- I 8 understand you feel that your reputation 9 has been harmed, but why did you 10 determine that the value of it was 5 11 times \$122,715? 12 A The exact number -- well, 13 122 was the money I could have brought 14 in, 122 and five years is the amount of 15 money since I left to the time I brought 16 the Complaint. I was removed on May 11, 17 2015 and to currently right now it's been 18 five years. 19 Q So -- 20 A Five and-a-half years. I 21 could have put it at 5.5, but I put it at 22 five. 23 Q So you chose that number 24 because you feel that it reflects the 25 amount of money that you could have</p>

2 (Pages 126 - 129)

<p style="text-align: right;">Page 130</p> <p>1 M.H. Capogrosso 2 brought in over those five years; 3 correct? 4 A Over those five years, plus 5 the damage to my reputation over those 6 five years. 7 Q Yeah. The question I'm 8 trying to get at, Mr. Capogrosso, is why 9 do you put the value of the damage of 10 your reputation as the same of the value 11 of five years of your expense -- of your 12 income or your billings rather? 13 A Well, that was the five 14 years I was not able to -- the damage to 15 my reputation for those five years I was 16 not present and being able to do this 17 type of work, not being able to talk to 18 my clients, not being able to represent 19 my clients for those five years. 20 Q I guess my question is 21 what's the difference between your 22 reputational claims and the future 23 prospective revenue that you could be -- 24 that you also claim? 25 A Revenue is one thing.</p>	<p style="text-align: right;">Page 132</p> <p>1 M.H. Capogrosso 2 ask the question a different way. If 3 your reputation had not been harmed at 4 all and you had continued practicing in 5 the TVB, would you have -- you would have 6 continued making money at that \$8,181 per 7 month or you would have continued -- 8 sorry. Let me withdraw the question and 9 phrase it a different way. 10 If you had not had your 11 reputation damaged at all, isn't it the 12 case that you would have just continued 13 making the same amount of money you were 14 making before you were expelled? 15 A Well, I don't know that. I 16 can't assume that. I can't assume it. I 17 may have made more. I may have made 18 less. I don't know. I probably would 19 have made more because people liked me. 20 My clients liked me. My clients really 21 liked me. 22 I probably would have 23 brought even more money in, which is the 24 reason some of these attorneys down there 25 wanted me out. It's a very competitive</p>
<p style="text-align: right;">Page 131</p> <p>1 M.H. Capogrosso 2 Damage to -- I might not be able to get 3 that revenue ever again counsel. I might 4 not ever be able to generate any type of 5 revenue in this community or in any TVB 6 in New York. I might not be able to 7 generate that revenue again. 8 Now that is for a jury to 9 decide as to what the damage to my 10 reputation is, a jury to decide how these 11 defendants should be punished. I have 12 given you figures. I have told you the 13 total amount of revenue I brought in, the 14 amount of months, what it breaks down per 15 month. I've given you my figures. A 16 jury needs to make those determinations, 17 but that's how I made it, the five years 18 I've been out, the value to my reputation 19 that I don't think I'll be able to get 20 many more clients in the Brooklyn 21 community because of this and the money 22 which I lost because I was not able to 23 work for the Brooklyn community during 24 this period of time. 25 Q So let me ask you -- let me</p>	<p style="text-align: right;">Page 133</p> <p>1 M.H. Capogrosso 2 business this ticket broker, this ticket 3 business. We are all vying for the 4 same -- the same ticket. There's only so 5 many tickets written. It's a very 6 competitive business with the attorneys. 7 So my reputation was growing 8 and I probably would have made more. 9 Q So let me ask you, do you 10 have any basis to believe or any evidence 11 for the proposition that you would have 12 made more money in the future? 13 A My clients liked me. My 14 reputation was good at that point. I 15 reestablished my reputation. I was 16 getting -- I was getting, you know, 17 clients, you know. I don't know. People 18 liked me. My clients liked me. 19 Q And how do you know that 20 your reputation was damaged? 21 A Nobody is going to hire me 22 anymore when you -- I had to call 850 23 clients, I gave you my calendar, 850 24 clients and tell them I can't show up. 25 You took my money, Counsel, why aren't</p>

<p style="text-align: right;">Page 134</p> <p>1 M.H. Capogrosso 2 you here? I had to explain it to 850 3 clients. 4 I can't tell you why. I 5 have no idea. I was given nothing in 6 writing. I was told by Danielle Calvo to 7 leave and told by Ida Traschen I'm not 8 allowed. I was given nothing in writing. 9 I have nothing to tell them. I was given 10 nothing by your office. I have nothing 11 to tell my clients. I don't know why. I 12 have no reason. I was told to leave. 13 Q All right. 14 A So my reputation -- so my 15 reputation has been damaged. 16 Q But you were still able to 17 get jobs in the legal community. You 18 said you represented clients on dozens of 19 cases, personal injury cases, criminal 20 cases and other cases; isn't that 21 correct? 22 A It took me a while to get a 23 job. They're not easy to find, 24 especially as you get older. They're not 25 easy to find. It took me a year to find</p>	<p style="text-align: right;">Page 136</p> <p>1 M.H. Capogrosso 2 yes, it was ruined. In terms of the 3 employers, no, it was not ruined because 4 I was never asked. 5 Q So can you specifically 6 identify any economic harm that you've 7 caused -- that you've suffered based on 8 the damage to your reputation? 9 A If I was to go back to 10 practice this type of law, I'm not going 11 to get as many cases as I did before. My 12 name and reputation as somebody who shows 13 up and argues a case and represents a 14 client zealously, which is an oath I 15 took, is not the same and it's not by my 16 fault. It's not by my fault. I took an 17 oath to zealously advocate and I could 18 not zealously advocate because I was 19 removed for no reason. No reasons were 20 given to me. I got a 10 second phone 21 call from Ida Traschen. 22 Q Okay. But so the question 23 was can you specifically identify any 24 economic harm that has been caused by the 25 damage to your reputation?</p>
<p style="text-align: right;">Page 135</p> <p>1 M.H. Capogrosso 2 the first job and then Jiang was nice, 3 then Jiang's office, but it's not easy, 4 it is not and it's not -- 5 Q Did you -- 6 A I liked -- I liked doing 7 what I did. 8 Q But your reputation -- 9 A People my age are retiring, 10 retiring at this age. I like to work and 11 it's not easy getting a job at this age. 12 Q Your reputation didn't 13 prevent you from getting these jobs 14 though, the one in the Perla firm and 15 then the one at the Jiang firm; is that 16 correct? 17 A I had to leave this type 18 of -- well, they didn't know about this, 19 my reputation. They didn't know about 20 this lawsuit or that I didn't show up on 21 cases, I wasn't allowed to show up. 22 Neither one of them asked me about this. 23 I would have told them if they did, but 24 they didn't ask me. 25 But in terms of the clients,</p>	<p style="text-align: right;">Page 137</p> <p>1 M.H. Capogrosso 2 A I'm not able to generate the 3 income that I was generating at the 4 Brooklyn TVB and I showed you the revenue 5 I was bringing in. 6 Q But is that because you're 7 not practicing at the Brooklyn TVB or is 8 that because of the damage to your 9 reputation? 10 A Because I'm not working at 11 the Brooklyn TVB and because of the 12 damage to my reputation. No one is ever 13 going to give me a case again down there, 14 nobody. 15 Q Because you -- 16 A Nobody is going to give me a 17 case. 18 Q Because you can't practice 19 there? 20 A I can't practice there and 21 if I could they still wouldn't hire me. 22 Q So it's more a contingent 23 thing in the event that you were to be 24 reinstated? 25 A Listen, my -- my reputation</p>

<p style="text-align: right;">Page 138</p> <p>1 M.H. Capogrosso 2 as an attorney has been damaged. I have 3 to explain this removal from the Brooklyn 4 TVB in 50 states in the United States if 5 I decide to go practice in any one of 6 these states, 50. In federal court, I 7 have to explain this. Immigration court, 8 I have to explain this. If I decide to 9 go down to the US PTO patent court, I 10 have to explain this.</p> <p>11 That's the damage to my name 12 and reputation. I have to explain this 13 every place I go down the road and every 14 court I seek admittance to I have to 15 explain it. You put a number on it. I'm 16 low. This number should be much higher. 17 You have to explain this when you try to 18 seek admission to another state court 19 someplace or to your federal court, the 20 Eastern District court, try to.</p> <p>21 I was removed without an 22 explanation as to what happened. A 10 23 second phone call from Ida Traschen, from 24 somebody, a clerk who didn't even look at 25 the videotape. That's the damage --</p>	<p style="text-align: right;">Page 140</p> <p>1 M.H. Capogrosso 2 case. I didn't talk to the judges 3 outside the courtroom. You're not 4 allowed to.</p> <p>5 Q So you don't know if you 6 were liked and respected by the judges --</p> <p>7 A I didn't --</p> <p>8 Q -- is that correct?</p> <p>9 A I cared what my clients 10 thought. I cared what my clients 11 thought. I argued a tough case. I 12 wasn't trying to please a judge. I was 13 trying to win my client's case. I was 14 not trying to please the judge.</p> <p>15 Q I understand that, 16 Mr. Capogrosso, but the question was a 17 little narrower. Do you know if the 18 judges liked and respected you?</p> <p>19 A No, I don't. I don't know. 20 I really don't care.</p> <p>21 Q Okay.</p> <p>22 A I really don't care. I did 23 what I had to do for my clients. Whether 24 a judge liked me or not --</p> <p>25 Q Okay?</p>
<p style="text-align: right;">Page 139</p> <p>1 M.H. Capogrosso 2 Q So how would you -- 3 A -- to my reputation.</p> <p>4 Q How would you describe your 5 reputation while you were practicing at 6 the TVB?</p> <p>7 A My clients loved me. I sent 8 you my reviews. They loved me. Police 9 officers didn't like me. I argued a very 10 tough case. The other attorneys didn't 11 like me, I was competition, I know that. 12 But my clients -- the clerks didn't love 13 me, I know that, too, because I wasn't 14 giving them gifts and money and buying 15 them breakfast, I understand that.</p> <p>16 But my clients loved me. I 17 argued every case.</p> <p>18 Q Did the ALJs like you?</p> <p>19 A I don't know. I didn't 20 associate with judges. You're not 21 allowed to. There's a rule about that. 22 There's a rule you're not supposed to 23 talk to judges outside a courtroom. 24 Whether they liked me or not, I really 25 didn't care. I know I argued a good</p>	<p style="text-align: right;">Page 141</p> <p>1 M.H. Capogrosso 2 A -- I wasn't trying to seek 3 their favor.</p> <p>4 Q And the clerks, did the 5 clerks like and respect you?</p> <p>6 A Clerks, I don't think they 7 liked me, no. I told you I wasn't giving 8 them any money. I wasn't giving them --</p> <p>9 Q Why not?</p> <p>10 A -- a piece of the action.</p> <p>11 No, I don't think the clerks 12 liked me. No, I think maybe one clerk 13 liked me. I treated them all nicely and 14 respectfully. I might have been loud. I 15 have a loud voice when I talk. I never 16 verbally abused anyone. Never called -- 17 never made a racial threat, verbally 18 abused anyone.</p> <p>19 I would argue zealously for 20 my clients, I wanted the best for them, 21 but I never verbally abused anyone.</p> <p>22 Q And the other attorneys, did 23 they like you?</p> <p>24 A The other attorneys? We 25 were in a competitive business, no. No,</p>

<p style="text-align: right;">Page 142</p> <p>1 M.H. Capogrosso 2 they didn't like me. Yaakov Brody told 3 me to go fuck myself, I'm a Jew hater 4 anti-Semite because I was making too much 5 money in his presence. He had no other 6 reason for saying it.</p> <p>7 When you go through all the 8 complaints written against me, there's 9 not one from a client or a motorist that 10 I made a racial epi -- a racial remark or 11 an anti-Semitic remark, not one from a 12 client. There's a couple complaints 13 about a fee, that I didn't show up or 14 something about a fee, but not one that I 15 made a racial remark or an inappropriate 16 remark to a client or I didn't show up on 17 a case.</p> <p>18 Now Yaakov Brody didn't like 19 me and I'm sure --</p> <p>20 Q So is it your contention -- 21 A Yes. 22 Q I apologize. I didn't mean 23 to cut you off, Mr. Capogrosso. 24 A Go ahead. I'm listening. 25 Q So is it your contention</p>	<p style="text-align: right;">Page 144</p> <p>1 M.H. Capogrosso 2 Q How -- 3 A I'll go through them one by 4 one. Put them up, let's go through them. 5 I'll respond to every complaint written 6 against me. I will respond to every 7 complaint written against me, I will 8 respond to. I'm glad I have the 9 opportunity. I --</p> <p>10 Q So that is where we are 11 going to next. Hold on one quick second 12 while I bring up the first of them.</p> <p>13 Mr. Capogrosso, can you see 14 the exhibit that I've just brought up?</p> <p>15 A Yeah. April 1. Yes, not 16 the whole part of it. I can only see the 17 top portion of it, so I'd like to read --</p> <p>18 MR. THOMPSON: Madam Court 19 Reporter, can you see it?</p> <p>20 MR. VIDEOGRAPHER: This is 21 the videographer. I see it, Counsel.</p> <p>22 A I can only see a portion of 23 it.</p> <p>24 Q Yeah. There's more down 25 here.</p>
<p style="text-align: right;">Page 143</p> <p>1 M.H. Capogrosso 2 that the complaints about you are made 3 up?</p> <p>4 A There's no substance. No, 5 they're not made up. They're real. I 6 saw them. I was given no opportunity to 7 respond to them. The first time I saw 8 these complaints was -- well, I was given 9 no opportunity to respond. I might have 10 seen -- I know I saw them in response to 11 the --</p> <p>12 Q Let me rephrase the 13 question.</p> <p>14 A I saw the complaints in 15 response to the motion to dismiss, the 16 first time I saw them.</p> <p>17 Q Let me rephrase the 18 question. We are not -- Mr. Capogrosso, 19 if I may, obviously there's not a 20 question as to whether the complaints are 21 real or not, but is it your contention 22 that the allegations in the complaints 23 are untruthful?</p> <p>24 A Yes, absolutely. I was 25 given no --</p>	<p style="text-align: right;">Page 145</p> <p>1 M.H. Capogrosso 2 MR. THOMPSON: I just wanted 3 to check with Ms. MacDonald because I 4 know you just swapped in. Are you 5 seeing the exhibits okay?</p> <p>6 MS. REPORTER: Sorry. I was 7 on mute. Yes.</p> <p>8 MR. THOMPSON: Okay. Good.</p> <p>9 Q So, Mr. Capogrosso, do you 10 recognize this document?</p> <p>11 A Well, I'd like to see the 12 bottom of it. I do recognize it, 13 absolutely.</p> <p>14 Q Sure.</p> <p>15 A All right. Go ahead. Yes. 16 I know exactly what this is.</p> <p>17 Q And this is, just for the 18 record, this is a document that you 19 produced at number P-80; is that correct?</p> <p>20 A I've produced it. I think 21 you produced it. You had this. I've 22 also given it back to you. Yes, it's 23 been produced.</p> <p>24 Q And you said you recognize 25 it. What is this document?</p>

<p style="text-align: right;">Page 146</p> <p>1 M.H. Capogrosso 2 A Well, this is the date with 3 Tanya Rubinowitz. This is the lawyer, 4 the woman calling herself a lawyer in 5 Judge Gelbstein's courtroom and this is 6 written by a clerk, I'm not sure who that 7 is, Perez, one of the clerks there and it 8 happened on 2009.</p> <p>9 This is after I called the 10 District Attorney and I said we have a 11 woman down here calling herself a lawyer 12 on a repeated basis and people asked me 13 where's Tanya, the lawyer. I said she's 14 not a lawyer.</p> <p>15 And she approaches me that 16 day and says did you call -- did you call 17 the District Attorney? I said yes, I 18 did, I admitted it to her and then she 19 starts yelling and berating me and I 20 tried walking away from her.</p> <p>21 Now, this clerk -- this 22 happened near the attorney's room. I 23 know exactly where it happened. Between 24 the attorney's room and the clerks, it's 25 at least 60 feet.</p>	<p style="text-align: right;">Page 148</p> <p>1 M.H. Capogrosso 2 telling her to get away from me. I 3 didn't yell any profanity because you 4 know what, they're not listed there. And 5 what obscenity was used? The clerk 6 doesn't put it down.</p> <p>7 I was telling her to get 8 away from me, but I yelled no profanity 9 and no obscenity. You can't make an 10 allegation that I used a profanity or 11 obscenity if you don't tell me what it is 12 and I used none. I never talked to a 13 woman like that, never. I treat women 14 very respectful.</p> <p>15 I was loud, that I agree I 16 was loud, but I did not use a profanity 17 or obscenity and none is listed. Tell me 18 which one I used.</p> <p>19 Q Mr. Perez also writes that 20 "Mr. Capogrosso was sitting down. I 21 observed him getting up" -- "get up from 22 his seat and approach Ms. Rabinovich 23 walking fast and hard toward her when he 24 bumped real hard into her as he tried to 25 pass by her, which was very unnecessary</p>
<p style="text-align: right;">Page 147</p> <p>1 M.H. Capogrosso 2 But that's what happened. 3 She came at me yelling and screaming why 4 did you call the District Attorney. I 5 admitted that I did. I could not have 6 admitted to it. I could have said I 7 didn't call her, right. I could have 8 just walked away, but I didn't. I 9 admitted the truth and I tried walking 10 away. That's what happened.</p> <p>11 I wasn't charged. I wasn't 12 arrested. I didn't do anything wrong but 13 tried to get away from the situation and 14 telling the truth. I told her what 15 happened and what I did.</p> <p>16 Q So in this statement from 17 Mr. Perez he writes that he saw -- "He 18 observed and heard Mr. Capogrosso 19 screaming and yelling profanities and 20 obscenities at Ms. Rabinovich, Tanya."</p> <p>21 Is that true?</p> <p>22 A No, it's not. There's not 23 one --</p> <p>24 Q You did not?</p> <p>25 A No. I did not. I was</p>	<p style="text-align: right;">Page 149</p> <p>1 M.H. Capogrosso 2 given he had plenty of room to walk 3 around her."</p> <p>4 Is that true?</p> <p>5 A I did get up. She's right 6 in my face, right about three feet away 7 from me, right on top of me. I did get 8 up and walk away. I don't recall bumping 9 into her, no. I would never hit a woman, 10 never, never.</p> <p>11 Q Would you bump --</p> <p>12 A I don't -- she was like 13 right on top of me, maybe three feet 14 away, pointing her finger at me and 15 yelling at me in Russian and some other 16 nonsense, yelling and screaming at me.</p> <p>17 Did I bump into her, no. I 18 would never hit a woman. But I did tell 19 her to get away from me and I did admit 20 to what I did and she was upset, but she 21 didn't --</p> <p>22 Q Did you --</p> <p>23 A She was upset.</p> <p>24 Q Did you make contact with 25 her in any way?</p>

<p style="text-align: right;">Page 150</p> <p>1 M.H. Capogrosso 2 A No, not that I recall, no. 3 She would have filed a police report 4 against me that I hit her and none was 5 filed. I do not recall hitting her, 6 absolutely not. 7 Q So I'll tell you, 8 Mr. Capogrosso, we are going to look at a 9 number of reports and this has some 10 similarities to some other ones in there 11 will be a number of reports that say that 12 you were yelling and shouting obscenities 13 and there will be a number of reports 14 saying that you bump into people and then 15 indicate that it's not on purpose.</p> <p>16 A Well -- 17 Q Is there any truth to that? 18 A Well, you can write and say 19 whatever you want. You can write and say 20 whatever you want. You know, I was never 21 arrested on anything. I didn't yell any 22 obscenity. You have to give me the 23 obscenity I used. You can make any 24 allegation you want at me. You have to 25 prove it. You have to have some type of</p>	<p style="text-align: right;">Page 152</p> <p>1 M.H. Capogrosso 2 So let's just ask here, 3 Mr. Perez who wrote this statement, is he 4 lying? 5 A I did not bump into anybody. 6 I did not hit anybody. I did walk away 7 from this woman who approached me, 8 approached me and asked me if I called 9 the DA on her and I said yes, I did, but 10 that story doesn't get -- 11 Q So -- 12 A -- that story doesn't get 13 told. 14 Q So Mr. Capogrosso that 15 wasn't quite the question. The question 16 is is Mr. Perez lying? 17 A That I used an obscenity, 18 absolutely, absolutely. 19 Q Why would he lie? 20 A They like Tanya. I told you 21 this already. Tanya was doing business 22 with the clerks. I saw Tanya at the 23 clerk's counter rescheduling cases as if 24 she was a lawyer. Maybe she was entering 25 guilty pleas at the counter as if she was</p>
<p style="text-align: right;">Page 151</p> <p>1 M.H. Capogrosso 2 corroboration. Is anybody corroborating 3 this, Ms. Perez, that they saw me? 4 Q Well -- 5 A Was there a police report 6 written against me? 7 Q Well, this is not a, you 8 know, this is not a statement in a court 9 of law. This is just a complaint saying 10 what happened; isn't it? 11 A Well, where's my affidavit 12 in response? Where's Judge Gelbstien 13 giving me a chance to respond to this so 14 we get right to the heart of the matter 15 in 2009? 16 Q So this person L. Perez, 17 Jr., do you know who that is? 18 A No. 19 Q It says MVR 1. Do you know 20 what an MVR 1 is? 21 A No. 22 Q I would suspect that it 23 means Motor Vehicle Representative 1, 24 which is the pay grade for the people who 25 work as clerks behind the counter.</p>	<p style="text-align: right;">Page 153</p> <p>1 M.H. Capogrosso 2 a lawyer. She had a case load. 3 She had an office right 4 outside the DMV and they were doing work 5 for her for some reason, which I don't 6 know, but, you know, it wasn't for free, 7 so they liked Tanya. 8 Q And so you think Perez was 9 lying because Ms. Rabinovich bribed the 10 clerks -- 11 A That's not -- 12 Q -- is that correct? 13 A I don't know. I don't know. 14 I know I didn't bump into anybody. I 15 know she was right on top of me. I know 16 I don't use obscenities with women, 17 absolutely not. There's not one -- 18 Q Okay. 19 A -- from a motorist. If you 20 go through all the complaints against me, 21 they're all by clerks. Not one motorist 22 or client has made a complaint against me 23 that I used an obscenity. You go through 24 all my complaints. 25 Q Well, we'll see some --</p>

8 (Pages 150 - 153)

<p>1 M.H. Capogrosso 2 A You go through all my 3 complaints. 4 Q Well, we'll see some of 5 those as we go forward. I'm going to 6 bring up another document here. 7 MR. THOMPSON: Oh, actually 8 before I do, Madam Court Reporter, 9 Ms. MacDonald, can I ask you to 10 please mark that as Exhibit 3? 11 Ms. MacDonald? 12 MS. REPORTER: Sure. I 13 usually don't like to speak while 14 you're videotaping so I've just been 15 nodding, but, yes, I'm noting in the 16 index that it will be marked. 17 MR. THOMPSON: Okay. Good. 18 MS. REPORTER: Are you 19 e-mailing -- did you e-mail all of 20 these exhibits to the other reporter? 21 MR. THOMPSON: Well, we 22 e-mailed all of them to Veritext 23 yesterday and we got a receipt, a 24 confirmation e-mail and I know that 25 the other reporter had them.</p>	<p>Page 154</p> <p>1 M.H. Capogrosso 2 bumped into her because I didn't bump 3 into her. That's Roy's version of the 4 same story. I'm telling the woman to get 5 away from me. 6 Q So this is a complaint 7 written by Roy Tucci; correct? 8 A Yeah, Roy I know. He's one 9 of the clerks. There's no indication -- 10 Q Does -- 11 A Wait, you've got to let me 12 finish. 13 Q Sure. 14 A There's no indication I 15 verbally abused or I said any 16 obscenities. Now they both observed the 17 same incident. What Roy states is I told 18 Tanya to get away from me, which I did. 19 MR. THOMPSON: So -- well, 20 first of all, Madam, Ms. MacDonald, 21 can I ask you to please mark this as 22 Exhibit 4? 23 (The above-referred-to 24 statement was marked as Exhibit 4 for 25 identification as of this date.)</p>
<p>1 M.H. Capogrosso 2 MS. REPORTER: Okay. 3 (The above-referred-to 4 statement was marked as Exhibit 3 for 5 identification as of this date.) 6 Q Mr. Capogrosso, I'm going to 7 bring up another exhibit -- 8 A Yes. 9 Q -- and share my screen here. 10 Mr. Capogrosso, do you see 11 the exhibit? 12 A Yes, yes. I remember that 13 one. April, yes. 14 Q And you see this one was 15 produced by you and marked P-82; correct? 16 A Yes. 17 Q And so what is this 18 document? 19 A Well, this is the same 20 incident and look what Roy says. Look 21 what Roy says. He was seated on the 22 bench. He stated get away from me, which 23 is what I'm telling Tanya. Then he rose 24 up and told Tanya to get away. 25 There's no indication I</p>	<p>Page 155</p> <p>1 M.H. Capogrosso 2 Q And, Mr. Capogrosso, 3 Mr. Tucci does say that he heard a loud 4 voice and that he saw you. 5 A Well, I do speak loudly, 6 yes. 7 Q He then writes "He then rose 8 and told Tanya the interpreter to get 9 away. Mr. Capogrosso moved towards Tanya 10 and they seemed to bump." 11 A I didn't -- 12 Q "The noise continued" -- 13 A Go ahead, finish. 14 Q So this is Mr. Tucci 15 corroborating that you bumped into 16 Ms. Rabinovich; isn't that correct? 17 A She bumped into me. I'm 18 trying to get away from her. She 19 approaches me. She's right on top of me. 20 I'm telling her to get away. She's 21 yelling and screaming in Russian at me 22 pointing her finger at me and I'm trying 23 to get away from her. 24 He doesn't indicate I bumped 25 into her. He said they seemed to bump.</p>

<p style="text-align: right;">Page 158</p> <p>1 M.H. Capogrosso 2 Q Well, he said that you moved 3 toward Tanya. You'll see I'm 4 highlighting that language here. He says 5 that you moved toward her. 6 A She's right in front of me. 7 I'm trying to get away from this woman 8 who's yelling and screaming at me at the 9 top of her lungs. 10 Now, did anybody report that 11 she's yelling at me, no. "They seem to 12 bump." She's three feet away from me. 13 I'm trying to get away from her. That's 14 what happened. 15 Q Mr. Tucci says you're moving 16 towards her. 17 A She was in front of me. 18 Where do you want me to go? How do I get 19 away from the woman? 20 Q So is Mr. Tucci telling the 21 truth here? 22 A I tried walking away from 23 this woman. 24 Q I understand, but that's not 25 the question. The question is is</p>	<p style="text-align: right;">Page 160</p> <p>1 M.H. Capogrosso 2 Danielle Calvo intervened." Do you 3 remember what happened? 4 A She's yelling and screaming 5 at me in Russian, in Russian after I 6 admitted to her that I called the 7 District Attorney. She's yelling and 8 screaming in Russian at me. I don't know 9 what she was screaming. 10 Q So -- 11 A And I like Russian women, 12 don't get me wrong, but I don't like a 13 Russian woman calling herself a lawyer 14 who's not. I didn't like that, 15 absolutely not. 16 Q Do you remember if -- 17 A I did not bump into her. 18 Q So do you remember if your 19 bodies made contact at all? 20 A I've answered this. No, I 21 do not. 22 Q Okay. No, you don't 23 remember or no, it didn't happen? 24 A I would never -- I don't 25 recall bumping into this woman. No, I do</p>
<p style="text-align: right;">Page 159</p> <p>1 M.H. Capogrosso 2 Mr. Tucci telling the truth here? 3 A I don't recall touching this 4 woman at any point, at any point. 5 Q I understand that, 6 Mr. Capogrosso, but the question is is 7 Mr. Tucci lying in this statement? 8 A I don't know if he's lying 9 or not. Maybe that's what he thought he 10 saw. I don't remember hitting this or 11 touching this woman. 12 Q Is it possible that you did? 13 A I don't recall. I've never 14 hit or touched a woman like this in my 15 life, never. Bumping into somebody -- 16 you're three feet away from me. Why are 17 you in my face? Why are you yelling and 18 screaming at me? How do I get away from 19 you at this point in time? 20 Q Is it possible you bumped 21 into her on purpose? 22 A Absolutely not. I would 23 never hit a woman in my life ever. 24 Q Mr. Tucci writes that "The 25 noise continued until our supervisor</p>	<p style="text-align: right;">Page 161</p> <p>1 M.H. Capogrosso 2 recall telling her to get away from me. 3 That's what I recall. 4 Q How big is Ms. Rabinovich? 5 A I don't recall. At that 6 point in time she was a nice 5'5" maybe. 7 Q And how tall are you, 8 Mr. Capogrosso? 9 A 5'10". 10 Q And are you a bigger guy, 11 are you a muscular guy? 12 A Oh, absolutely, I'm not 13 going to deny that. I work out every 14 day. 15 Q So you're, it's safe to say, 16 a lot more physically imposing than 17 Ms. Rabinovich was; is that correct? 18 A That's why I was trying to 19 move away from her. I'm 210. I'm 5'10", 20 210. That's why I'm trying to get away 21 from her. 22 Q All right. 23 A That's why I'm telling her 24 to get away from me. 25 Q Okay. Let's move on to the</p>

10 (Pages 158 - 161)

<p style="text-align: right;">Page 162</p> <p>1 M.H. Capogrosso 2 next document. I'll stop the Screen 3 Share.</p> <p>4 MR. THOMPSON: And, Madam 5 Court Reporter, that was Exhibit 4.</p> <p>6 Q I'm going to share another 7 document here.</p> <p>8 Mr. Capogrosso, can you see 9 this document?</p> <p>10 A Yeah.</p> <p>11 Q And what is this document? 12 Do you recognize it?</p> <p>13 A Well, it's from Marisol. I 14 know Marisol.</p> <p>15 Q And this document you 16 produced and Bates stamped P-84; correct?</p> <p>17 A Yes.</p> <p>18 Q And so what is this specific 19 document?</p> <p>20 A I guess it's her complaint 21 about me that I was acting aggressively 22 toward her.</p> <p>23 MR. THOMPSON: Okay.</p> <p>24 Ms. MacDonald, can I ask you to 25 please mark this as Exhibit 5?</p>	<p style="text-align: right;">Page 164</p> <p>1 M.H. Capogrosso 2 tickets that I needed for the day. Can I 3 please have my tickets, thank you very 4 much. That's all I said or did.</p> <p>5 Q Okay.</p> <p>6 A I did what was required to 7 do.</p> <p>8 Q So --</p> <p>9 A Did I talk to her after work 10 or during work or have conversations with 11 her, no. I did my business at the 12 counter or when I put the ticket in the 13 courtroom. That was the extent of it.</p> <p>14 Hello, here's my ticket, thank you.</p> <p>15 Q So, Mr. Capogrosso, 16 Ms. Cervoni writes that on June 9, 2009 17 at approximately 9:45 a.m. she called a 18 customer to her counter. "The motorist 19 was accompany by Michael, who is the 20 assistant of Mr. Capogrosso who's one of 21 the lawyers who represents motorists at 22 their hearings at Brooklyn South."</p> <p>23 Who is Michael?</p> <p>24 A Well, at that point in time 25 we were allowed to have paralegals. He</p>
<p style="text-align: right;">Page 163</p> <p>1 M.H. Capogrosso 2 (The above-referred-to 3 statement was marked as Exhibit 5 for 4 identification as of this date.)</p> <p>5 Q So, Mr. Capogrosso, who is 6 Marisol Cervoni?</p> <p>7 A She's a clerk at the TVB, 8 Brooklyn TVB.</p> <p>9 Q Did you have a good 10 relationship with her?</p> <p>11 A She was a clerk. I just -- 12 I went to the counter and she helped me 13 get the tickets for the day. She was a 14 clerk. I wasn't trying to have a 15 relationship with clerks. I wasn't 16 trying to have a relationship. I was 17 just trying to deal with her and to do my 18 job.</p> <p>19 Q I understand, 20 Mr. Capogrosso, but the question was did 21 you have a good relationship with 22 Ms. Cervoni?</p> <p>23 A I had a good relationship on 24 a business level with all the clerks. I 25 went up to the counter, I gave them my</p>	<p style="text-align: right;">Page 165</p> <p>1 M.H. Capogrosso 2 would -- they were a lot of Russian 3 clients down there. He was a paralegal 4 that worked for me. He spoke Russian. 5 He translated -- he translated clients 6 who spoke Russian to English and helped 7 in the courtroom when we needed 8 translation.</p> <p>9 Q And you --</p> <p>10 A All the attorneys had a 11 paralegal at that point.</p> <p>12 Q And did you employ him?</p> <p>13 A He was paid as an 14 independent contractor.</p> <p>15 Q About how much did you pay 16 him?</p> <p>17 A I don't know. It varied.</p> <p>18 It depends how many hours he put in.</p> <p>19 Q How much did you pay him per 20 hour?</p> <p>21 A I don't recall.</p> <p>22 Q Do you have a ballpark 23 estimate?</p> <p>24 A No. I don't recall. We 25 paid him -- we paid him on a daily basis.</p>

<p style="text-align: right;">Page 166</p> <p>1 M.H. Capogrosso 2 I made sure he got paid every day for the 3 work he did. 4 Q And how long did you have an 5 assistant for -- 6 A I don't recall. 7 Q -- or a paralegal? 8 A I don't recall how long. 9 You know, it must have been -- all the 10 other attorneys had them, so at some 11 point in time I was doing well, I said 12 let me take on and they all were using 13 them, so I did. 14 I don't recall the exact 15 amount of time. I know they were all 16 thrown out at one point in time because 17 there were accusations against them, so 18 they were thrown out of all the TVBs. 19 Q What -- 20 A We weren't allowed to have 21 them anymore. 22 Q What were these accusations? 23 A I don't know exactly. As I 24 understand it, they were stealing, 25 stealing from motorists, stealing from</p>	<p style="text-align: right;">Page 168</p> <p>1 M.H. Capogrosso 2 no. He worked for -- Andy worked for 3 Eugene Gabase(phonetic). 4 Q So Michael is the only 5 assistant -- 6 A Yes. 7 Q -- that you employed; is 8 that correct? 9 A As I recall, yes, but Andy 10 and I were friends. 11 Q All right. So in here, in 12 Exhibit 5 you see Ms. Cervoni writes that 13 the motorist handed her driver's license. 14 "And Michael called Mr. Capogrosso over 15 to my window. Mr. Capogrosso thinking 16 there was a problem approached my counter 17 and aggressively and belligerently began 18 yelling at me." 19 Do you recall this incident? 20 A I don't think I was 21 aggressive or belligerent. I might have 22 been loud. I do speak loudly. I want 23 people to hear me when I speak. I think 24 maybe she's a little oversensitive. 25 Maybe I was trying to understand what was</p>
<p style="text-align: right;">Page 167</p> <p>1 M.H. Capogrosso 2 clients, stealing from lawyers, stealing 3 from each other. 4 Q Were there accusations 5 against Michael? 6 A No, no. Michael was a nice 7 guy, real nice guy. 8 Q And what was Michael's last 9 name? 10 A I don't remember, I really 11 don't, but he was a nice guy. He had a 12 brother -- 13 Q Did you -- 14 A His brother -- 15 Q Did you ever -- 16 A His brother worked for -- go 17 ahead. 18 Q Did you ever employ an 19 assistant other than Michael? 20 A His brother and I, when I 21 first came down, his brother was a 22 paralegal for Terry Horton. We became 23 friends. I forgot his name. Andy was 24 his brother. 25 But did I ever employ him,</p>	<p style="text-align: right;">Page 169</p> <p>1 M.H. Capogrosso 2 going on because I cared about my client 3 and what was going on and I actually give 4 a damn about my client and their 5 licenses. 6 So I was trying to get to 7 the heart of the matter, but I was not 8 belligerent or aggressive. Maybe I was 9 loud. 10 Q So do you recall this 11 specific incident? 12 A I recall Michael calling me 13 over, yeah. I never cursed or insulted 14 the woman, absolutely not, absolutely 15 not. She doesn't put down what curse or 16 insult I used. You make general 17 allegations -- 18 Q Does she have to? 19 A Well, yeah. If you make an 20 accusation somebody is cursing or 21 insulting me, tell me what I said. Tell 22 me exactly. I might have been loud. 23 Listen, I am loud. I want people to hear 24 me when I speak. But tell me what word I 25 used to curse or what word I used to</p>

<p style="text-align: right;">Page 170</p> <p>1 M.H. Capogrosso 2 insult. I'd like to know. 3 I don't curse or insult 4 women. It's not something I do. 5 Q Does it make her wrong if 6 she didn't list the curse word? 7 A Absolutely, because I want 8 to know what I'm being accused of. Don't 9 accuse somebody of something if you can't 10 stand behind it. Tell me what curse word 11 I used and what word I used to insult 12 you. I want to know that. 13 Q So you -- 14 A Tell her that. 15 Q So you admit that you were 16 speaking with her, but you say you were 17 not belligerent -- 18 A I wasn't -- 19 Q -- is that correct? 20 A I wasn't belligerent. I was 21 speaking loudly as I'm speaking to you. 22 I speak in a loud voice. If she took it 23 wrongly, I'm sorry. 24 Q As you said, Mr. Capogrosso, 25 you're a big guy. You're an athletic</p>	<p style="text-align: right;">Page 172</p> <p>1 M.H. Capogrosso 2 Q So -- 3 A Absolutely not. 4 Q So is Ms. Cervoni lying? 5 A Yes. When she says I'm 6 cursing and insulting and yelling, yes. 7 I might have been loud, but not cursing 8 and insulting. 9 She doesn't put -- 10 Q Why would she -- 11 A -- down what I said. 12 Q Why would she lie? 13 A I don't know. 14 Q What motivation would she 15 have to lie about you? 16 A Like I said, maybe I wasn't 17 giving her gifts and presents and money 18 like the other clerks were getting. The 19 other attorneys were giving these clerks 20 money for Christmas, buying them 21 breakfast. 22 Q Did -- 23 A You got to let me finish. 24 Buying them breakfast in the 25 morning, giving them parties. One of the</p>
<p style="text-align: right;">Page 171</p> <p>1 M.H. Capogrosso 2 guy. Is it possible -- and when you 3 speak loudly to someone, particularly a 4 woman, isn't it possible that they are 5 going to view that as aggressive and 6 belligerent? 7 A I don't know how you view 8 it. I don't know how you view it. View 9 it anyway you like. I wasn't cursing. I 10 wasn't insulting. I might have been 11 loud. I might have been talking loudly 12 because I'm trying to get to the heart of 13 the matter and help my client out, but 14 how it's interpreted, I don't know. 15 Q So she writes that she 16 assured you there was no problem and that 17 she had already printed out the ticket 18 for your client, quote, "but at that 19 point he was already out of control and 20 continued yelling, cursing and insulting 21 me." 22 Is that true? 23 A No. I never cursed or 24 yelled or insulted, absolutely not. 25 Absolutely not.</p>	<p style="text-align: right;">Page 173</p> <p>1 M.H. Capogrosso 2 attorneys says how much money are you 3 giving the clerks for Christmas? I was 4 not doing this. I was there to do a job, 5 that's it. I was not trying to -- 6 Q So is -- 7 A -- endear myself to the 8 clerks, I was not in any way. To me 9 there was an appearance of impropriety if 10 I tried to endear myself to these clerks 11 by giving them gifts or buying them 12 breakfast. 13 Q Did -- 14 A You got to let me finish. 15 Buying them breakfast -- 16 Q Sure. 17 A -- or giving them cash as 18 the other attorneys were doing. It was 19 an appearance. I didn't want to do it. 20 I just wanted to do my job. 21 Was I loud? I definitely 22 probably was loud, I'll admit to that. 23 Was I cursing and insulting, absolutely 24 not. 25 Q Mr. Capogrosso, is it your</p>

<p style="text-align: right;">Page 174</p> <p>1 M.H. Capogrosso 2 testimony that Ms. Cervoni made this up 3 because you weren't giving money to the 4 clerks?</p> <p>5 A She's not telling the truth 6 there. I did not curse and I didn't 7 insult. I don't know why. I'm a zealous 8 advocator in this court, that's what I 9 took an oath to do, zealously advocate. 10 I took an oath when I got sworn in. 11 That's what I do.</p> <p>12 I didn't curse at --</p> <p>13 Q Do you think Ms. Cervoni 14 wanted to see you gone from the TVB?</p> <p>15 A I don't know. I don't know. 16 I think we became friends afterwards. I 17 think we became friends right before we 18 left. That's why I wanted to depose her. 19 I think she really liked me at one point 20 in time. She's a very beautiful woman, 21 Marisol and I think at one point -- she's 22 a nice woman and I think at one point we 23 became friends.</p> <p>24 But was I trying to endear 25 myself to any of these clerks, no. I was</p>	<p style="text-align: right;">Page 176</p> <p>1 M.H. Capogrosso 2 had the obligation, so let me resolve it. 3 Let me speak to somebody else if there's 4 an issue and one person can't solve it, 5 you go to another person and maybe they 6 can solve it.</p> <p>7 So, yeah, I had a duty to my 8 client to resolve that issue, so maybe --</p> <p>9 Q So she writes --</p> <p>10 Mr. Capogrosso, she writes "Throughout 11 the day Mr. Capogrosso was taunting me. 12 He would walk past my station making 13 comments and smirking at me." Is that 14 true?</p> <p>15 A No. Taunt? Wait a second. 16 How exactly did I taunt? Now you give me 17 the exact words I used. That's a lie.</p> <p>18 Smirk? You know, when an 19 issue is resolved with me, it's resolved. 20 I don't hold on -- you know, I don't keep 21 going back after it. I did not smirk. I 22 don't know what smirking is.</p> <p>23 First of all, is there a 24 problem with smirking? I think we have a 25 Vice President now that smirks all the</p>
<p style="text-align: right;">Page 175</p> <p>1 M.H. Capogrosso 2 trying to do my job. That's all I'm 3 required to do.</p> <p>4 Q She writes that -- she 5 writes that "The supervisors, Geri, 6 Danielle and John all came out to see 7 what the commotion was and to resolve the 8 situation, but he" and I assume that 9 means you "refused to listen to reason or 10 leave my counter."</p> <p>11 Did you refuse to leave?</p> <p>12 A I don't recall, no, no.</p> <p>13 Maybe I -- well, wait a second, wait. 14 Wait a second. Maybe I wanted the issue 15 resolved and I wanted some explanation of 16 the issue, which is my duty to do. I 17 have a duty to my client, not to a clerk, 18 but to my client to make sure the issue 19 is resolved, whatever this issue was.</p> <p>20 Michael called me over, 21 there was an issue. I have a duty to 22 make sure that issue gets resolved as the 23 attorney for the motorist, that's my job, 24 make sure it's resolved, right? That's 25 the job of the attorney here, right? I</p>	<p style="text-align: right;">Page 177</p> <p>1 M.H. Capogrosso 2 time. She enjoys smirking. That's my 3 opinion.</p> <p>4 I don't see anything wrong 5 with smirking, though I don't recall 6 doing it. I don't even know what 7 smirking is. Laughing?</p> <p>8 Q Smirking is a little smile.</p> <p>9 A All right. We got a Vice 10 President that seems to do it all the 11 time. It's all right for the Vice 12 President.</p> <p>13 Q I'm not sure I understand 14 what this has to do with the Vice 15 President.</p> <p>16 A Well, I'm telling you we 17 have a Vice President now, Kamala, who 18 likes to smirk.</p> <p>19 I don't -- I don't know what 20 smirking is. I have an issue, I resolve 21 the issue, I move on. I'm not trying to 22 have a beef with a clerk at a DMV. That 23 is not my issue to have a beef or an 24 argument with a clerk. I need these 25 clerks to help me out.</p>

<p style="text-align: right;">Page 178</p> <p>1 M.H. Capogrosso 2 Q If you don't know what 3 smirking is -- 4 A I have -- I have no reason 5 to have an argument or an altercation 6 with a clerk, none, no reason. 7 Q Mr. Capogrosso, if you don't 8 know what smirking is, how do you know 9 the Vice President does it? 10 A Well, to me a smirk is when 11 you laugh sarcastically, right, that's a 12 smirk? That's what a smirk is, you laugh 13 sarcastically. 14 And once again I will 15 repeat, it does me no good to have any 16 type of issue with a clerk. I'm there to 17 do a job. I smirk? Now I smirk? I mean 18 I don't believe I'm being accused of 19 smirking. 20 Q I will tell you, 21 Mr. Capogrosso, this is not the first 22 complaint that we'll see today where 23 someone indicates that you kept coming by 24 and smiling at them and sort of taunting 25 them throughout the day.</p>	<p style="text-align: right;">Page 180</p> <p>1 M.H. Capogrosso 2 I mean you can have any 3 perception you like of somebody. You can 4 have any perception you like. It doesn't 5 mean that that's what I am. 6 Q Were you aware -- 7 A I was a zealous advocate, 8 but -- 9 Q Mr. Capogrosso, were you -- 10 A Let me finish. 11 Q Sure. 12 A Well, let me finish. What 13 reason did she fear? What exactly did I 14 do? See, I want to know the specifics. 15 I don't want to know the allegations. 16 Tell me exactly why you felt fearful. 17 And let me tell you 18 something, you tell me once, you never 19 have to tell me twice. Tell me exactly 20 what -- 21 Q Mr. Capogrosso -- 22 A -- I did. I'd like to know. 23 Q Well, it seems here you 24 yelled at her and cursed at her and 25 wouldn't leave when she asked you to.</p>
<p style="text-align: right;">Page 179</p> <p>1 M.H. Capogrosso 2 A Well, you can -- 3 Q Do you have any response to 4 that? 5 A Well, you can make any 6 complaint you like, it doesn't mean it's 7 true and I have no reason, no reason to 8 have any beef, any complaints with a 9 clerk and clerks at this office that I 10 need. Now, I was given no opportunity to 11 respond to this, none at the time, none. 12 Q Mr. Capogrosso she writes "I 13 can no longer interact with 14 Mr. Capogrosso at the service counter 15 because I fear for my safety. On many 16 occasions I've observed him display his 17 aggressive behavior toward my coworkers, 18 his clients, the other attorneys and 19 their assistants." 20 She feared for her safety, 21 what does that mean to you? 22 A I don't know. I treated her 23 nicely and respectfully. Nicely and 24 respectfully I treated this woman. I 25 never threatened her or harmed her.</p>	<p style="text-align: right;">Page 181</p> <p>1 M.H. Capogrosso 2 A Well, I didn't yell and I 3 didn't curse, I didn't insult. No words 4 are shown, no words. What words were 5 spoken? 6 Now what I did -- 7 Q Mr. Capogrosso -- 8 A -- do, maybe I was loud, but 9 I did not yell and I did not curse. I 10 did not curse and I did not insult and 11 for what reason she's fearful I do not 12 know. I didn't schmooze with her in the 13 morning and ask her how's she doing and 14 is she okay and how is your weekend and 15 how's all this. I didn't talk about all 16 that stuff. I was there to do a job. 17 Q Mr. Capogrosso, were you 18 aware that there were people at the TVB 19 who were afraid of you? 20 A No. 21 Q No? 22 A None of these complaints 23 were ever brought to me. You tell me 24 once, you don't have to tell me twice. 25 Q That's not the question</p>

15 (Pages 178 - 181)

<p style="text-align: right;">Page 182</p> <p>1 M.H. Capogrosso 2 though. The question is were you aware 3 that there were people who were afraid of 4 you? 5 A No. Tell me who. I was 6 never put on notice. You tell me once, 7 you never have to tell me twice. 8 Q Did anyone around you seem 9 afraid of you? 10 A Seem afraid? I don't know 11 how other people feel. I know I have a 12 very strong presence, I understand that. 13 I've been told that I have a certain 14 strong presence and maybe it's because a 15 lot of things I've done in my life, but I 16 do have a strong presence. 17 Q If -- 18 A I've been told that. 19 Q If someone was afraid of 20 you, would you care? 21 A I would try to rectify it. 22 I would do everything I could in my 23 ability to rectify it. But was I trying 24 to endear myself to these clerks, no. I 25 was trying to do a job.</p>	<p style="text-align: right;">Page 184</p> <p>1 M.H. Capogrosso 2 A Was I arrested for assault? 3 Q Why would she lie? 4 A Well, maybe she liked Tanya 5 and she didn't like me. Maybe she liked 6 Tanya and she didn't like me. I didn't 7 schmooze with these law -- with these 8 clerks. I wasn't there in the morning 9 saying how was your day. I wasn't there 10 saying how was your weekend. I wasn't 11 there saying what do you want to do for 12 lunch today. 13 Q Well, she's -- 14 A I wasn't doing that. 15 Q -- not saying that you're 16 not saying, you know, asking her how 17 she's doing, schmoozing her in the 18 mornings. She's saying that you're 19 physically scaring her. 20 A How did I physically scare 21 her? Tell me the specifics. 22 Q You -- 23 A Tell me what I did. 24 Q -- yelled at her and cursed 25 at her and you wouldn't leave when she</p>
<p style="text-align: right;">Page 183</p> <p>1 M.H. Capogrosso 2 Q Were you aware that 3 Ms. Cervoni had filed a complaint? 4 A No, no, absolutely not. 5 Like I said, if she had brought this to 6 my attention I would have rectified it 7 immediately. If anybody brought this to 8 my attention, I would have rectified it 9 immediately. 10 Q She writes that you 11 assaulted a female assistant who works 12 for another lawyer. Is she referring to 13 Ms. Rabinovich? 14 A Yeah. That was not an 15 assault. That's a lie. There was no 16 assault. There was no assault. I would 17 have been arrested if there's an assault. 18 That's an absolute lie. Your words are 19 very important here. You can't make 20 accusations against somebody that aren't 21 true. 22 Q So why is Ms. Cervoni lying? 23 A Why? I don't know. There 24 was no assault. 25 Q Why would --</p>	<p style="text-align: right;">Page 185</p> <p>1 M.H. Capogrosso 2 said to leave. 3 A I didn't curse. I might 4 have been loud. I didn't curse. 5 Q She says she had to go to 6 the back office to get away from you. 7 A Well, that was her decision. 8 My duty is to my client. If a supervisor 9 comes out, I'm trying to resolve the 10 issue, I'm going to talk to the 11 supervisor. 12 Q Do you remember her leaving 13 to get away from you? 14 A No. 15 Q She writes "His aggressive 16 behavior has steadily progressed within 17 the past few months. I no longer feel 18 comfortable at my place of employment 19 because of this individual's behavior and 20 I wish to go on record in the event of 21 any future conflicts." 22 A Well -- 23 Q Had your aggressive behavior 24 been progressing? 25 A I don't know what she means</p>

<p style="text-align: right;">Page 186</p> <p>1 M.H. Capogrosso 2 by aggressive behavior. Tell me what I 3 did. 4 Q Well, were you aware at this 5 point that there have been multiple 6 incidents where people claimed that you 7 had been aggressive? 8 A No, no, no. I -- 9 Q You had no idea that anyone 10 complained about the incident with 11 Ms. Rabinovich? 12 A No, no. You tell me -- I've 13 never seen these complaints. If Judge 14 Gelbstein was doing his job or his 15 clerical supervisor was doing their job, 16 they would have brought this complaint to 17 my attention and I would have resolved 18 it. You tell me once, you don't have to 19 tell me twice. 20 Q So -- 21 A You have to let me finish. 22 You tell me once, you never have to tell 23 me twice. You have to let me finish. 24 Q So -- 25 A Let me finish.</p>	<p style="text-align: right;">Page 188</p> <p>1 M.H. Capogrosso 2 That is not being fair to 3 me. You have to let me finish. You're 4 not being fair to me if you make an 5 accusation and you don't let me address 6 it and resolve it, you're not being fair 7 to me. 8 Q All right. 9 A You have let me finish. 10 Q Mr. Capogrosso, let's move 11 on to the next question. 12 A I want to finish. 13 Q Respectfully -- 14 A You're not -- 15 Q -- we are going to move on 16 to the next question. 17 A You're not being fair to me 18 if you don't let me address that issue. 19 Q Mr. Capogrosso, you've been 20 addressing the issue. We have other 21 questions that we need to get to, the 22 first of which is yesterday at his 23 deposition, Judge Gelbstein testified 24 that when he received a complaint about 25 you, he would take you into his office</p>
<p style="text-align: right;">Page 187</p> <p>1 M.H. Capogrosso 2 Q Sure. 3 A This was never brought to my 4 attention so I could resolve it. I'm 5 there working on a daily basis. I have 6 no reason to have any altercations with 7 anybody. I was there to zealously 8 advocate on behalf of my clients. 9 You tell me what the 10 aggressive behavior is and I will resolve 11 it, but don't accuse me of something -- 12 Q So -- 13 A You got to let me finish. 14 Q Sure. 15 A -- and leave out the details 16 of what the aggressive behavior was, then 17 don't show me this affidavit ever or 18 bring it to my attention so I can resolve 19 it. That's not being fair. 20 Q So Mr. Capogrosso -- 21 A You've got to let me finish. 22 Q I do need to ask another 23 question. 24 A You have to let me finish. 25 I'm not finished.</p>	<p style="text-align: right;">Page 189</p> <p>1 M.H. Capogrosso 2 and speak with you verbally about it. 3 Did he do that in this 4 case -- 5 A No, he did not. 6 Q -- with the complaints? 7 A No. 8 Q Do you remember him ever 9 taking you to his office to discuss 10 complaints about you and about aggressive 11 behavior? 12 A Absolutely not. Now -- 13 Q Not once? 14 A You have to let me finish. 15 Q Sure. 16 A All these complaints, Judge 17 Gelbstein never presented to me one of 18 these complaints, not one, because I 19 would have filed -- 20 Q Mr. Capogrosso -- 21 A You have to let me finish. 22 Mr. Thompson, you've got to let me 23 finish. 24 Q Well, let me clarify the 25 question.</p>

<p style="text-align: right;">Page 190</p> <p>1 M.H. Capogrosso 2 MS. REPORTER: Wait, time 3 out. I'm going off the record right 4 now. 5 Q Mr. Capogrosso -- 6 MS. REPORTER: Time out. 7 I'm stopping. I'm not even writing 8 this. 9 MR. THOMPSON: Let's go off 10 the record. 11 MS. REPORTER: Off the 12 record, please, off the record. We 13 are having an issue. 14 MR. THOMPSON: Off the 15 record, please. 16 MR. VIDEOGRAPHER: The time 17 is 12:40. We are off the record. 18 (A short recess was taken.) 19 MR. VIDEOGRAPHER: The time 20 is 12:45. We are on the record. 21 Q So, Mr. Capogrosso, as I 22 mentioned, yesterday at his deposition 23 Judge Gelbstein testified that when he 24 received a complaint about you, he would 25 take you into his office and tell you</p>	<p style="text-align: right;">Page 192</p> <p>1 M.H. Capogrosso 2 don't have to tell me twice. 3 Q So was Mr. Gelbstein lying 4 when he said that he spoke with you 5 verbally about complaints? 6 A Yes. I've never -- he never 7 gave me a specific of any complaint that 8 I could respond to, never the specific of 9 any complaint that I could respond to and 10 resolve. 11 Q Did he ever tell you that 12 there had been complaints without giving 13 you the specifics? 14 A No. Give me the specific 15 complaint. No. Tell me what it is and I 16 will respond and resolve it. 17 Q So were you aware that there 18 had ever been any complaint made about 19 you by any person? 20 A No, no. I saw no 21 complaints. People didn't like me, I 22 understand that, but I saw no complaints 23 from anyone that I could respond to and 24 resolve because -- 25 Q And --</p>
<p style="text-align: right;">Page 191</p> <p>1 M.H. Capogrosso 2 verbally the substance of that complaint. 3 Do you remember him 4 testifying to that? 5 A He testified to it. 6 Q Did that happen in this 7 case, in the case of Ms. Cervoni's 8 complaint? 9 A Not to me, no, never. 10 Q Do you remember him ever 11 having a verbal conversation with you 12 about complaints that had been made about 13 you? 14 A No, nothing, no because he 15 never gave me any complaint to respond 16 to. I would have responded. 17 Q And let me clarify the 18 question. I'm not asking whether he gave 19 you the physical hard copy complaint. 20 I'm asking whether he verbally told you 21 about complaints that had been made about 22 you? 23 A No. You tell me once -- 24 Q He never did that? 25 A No. You tell me once, you</p>	<p style="text-align: right;">Page 193</p> <p>1 M.H. Capogrosso 2 A -- I'm the first one to 3 attempt to resolve it. 4 Q And Mr. Capogrosso I want to 5 make this question very clear, I'm not 6 asking whether you saw a physical hard 7 copy paper complaint. I'm asking you 8 were you ever aware that anyone had ever 9 made a complaint about your conduct? 10 A No. 11 Q Let's move on to a new 12 document. I'll close out of that one. 13 MR. THOMPSON: I'm not sure 14 if we marked that one, Ms. MacDonald, 15 but let's mark that Exhibit 5 if we 16 haven't already, the previous one. 17 Q Mr. Capogrosso, can you see 18 this document? 19 A Yes. 20 Q Do you recognize this 21 document? 22 A Yeah. I recognize the top 23 portion of it, but I'm sure it's -- 24 Q And you see this document 25 was produced by you and marked P-86;</p>

<p>1 M.H. Capogrosso 2 correct? 3 A Yes. 4 Q What is this document? 5 A I don't know. It's a 6 complaint from Diantha Fuller I guess. 7 MR. THOMPSON: Can I, Madam 8 Court Reporter, can I ask you to mark 9 this as Exhibit 6? 10 (The above-referred-to 11 statement was marked as Exhibit 6 for 12 identification as of this date.) 13 Q Mr. Capogrosso, my first 14 question is these redactions up at the 15 top, did you add these? 16 A No. 17 Q Where are they from? 18 A Where are they from? I 19 don't know where they're from. I know 20 you submitted it to my office and then I 21 returned it. 22 Q Because to my knowledge, 23 these were not redacted -- 24 A Oh. 25 Q -- when we submitted them.</p>	<p>Page 194</p> <p>1 M.H. Capogrosso 2 A Well, she just pretty much 3 pleaded you guilty. She went into the 4 courtroom, took a case, postponed it and 5 she just entered a guilty plea. She 6 didn't really argue for her clients and I 7 felt that was terrible. 8 She's used to solicit 9 attorneys -- solicit clients all the 10 time, solicit clients all the time. 11 She'd walk up to a client in the morning, 12 hand them his bus -- her business card 13 and says here, I'm a lawyer. I thought 14 it was terrible. Judge Gelstein allowed 15 it. 16 So I didn't like her as an 17 attorney whatsoever. It was terrible 18 what she was doing. There's signs all 19 around that say you shouldn't solicit and 20 she was soliciting everybody. 21 Q So Ms. Fuller writes "As 22 requested by your staff, below is Agnes 23 Paez's report of the events that 24 transpired on 7/31/09 in the Coney Island 25 Traffic Bureaus, which I took directly</p>
<p>1 M.H. Capogrosso 2 A I'll tell you where I got 3 this. I got this redacted like this in 4 a motion -- in your motion to dismiss, 5 this was attached redacted. You filed 6 these affidavits. The first time I'm 7 seeing these affidavits is in your motion 8 to dismiss to me and they were redacted 9 in that manner. That's where I got it. 10 Q Okay. So who is Diantha L. 11 Fuller? 12 A She's a lawyer that worked 13 down there. 14 Q And do you have a good 15 relationship with Ms. Fuller? 16 A No. Diantha did not like 17 me. Diantha did not like me. She did 18 not like me at all. 19 Q Why not? 20 A I don't know. She just 21 didn't like me. I didn't talk to her. I 22 didn't socialize with her. I didn't like 23 the type of attorney she was. 24 Q What type of attorney was 25 she?</p>	<p>Page 195</p> <p>1 M.H. Capogrosso 2 from an e-mail she submitted to me." 3 Do you know who Agnes Paez 4 is? 5 A Yes. She was a paralegal 6 down there. 7 Q And who did she work for? 8 A Well, actually I do remember 9 her now. Now actually this lady did work 10 for me for a while before Michael came on 11 and then went to work -- she did, she 12 worked as a translator. She spoke 13 Spanish. She did work for a couple of 14 months I think. I don't know exactly how 15 long, but for a couple of months with me 16 down there. She was a translator. 17 And I didn't like what she 18 was doing, so I let her go and I brought 19 Michael in instead. 20 Q And was this time that she 21 worked with you before or after July 31, 22 2009? 23 A It was before. Before then, 24 before then. 25 Q And you said you fired</p>

<p style="text-align: right;">Page 198</p> <p>1 M.H. Capogrosso 2 Ms. Paez; is that true? 3 A I told her -- well, she 4 went -- I said we are not going to work 5 anymore together. I didn't like what she 6 was doing. 7 Q What was she doing that you 8 didn't like? 9 A She was soliciting, 10 soliciting motorists in the parking lot 11 and they was walking in. It was 12 embarrassing. She was hungry for money 13 this woman. She was walking -- she 14 was -- and the other attorneys were 15 complaining, too. She was in the parking 16 lot as motorists were walking in in the 17 morning, she was handing out business 18 cards. I said you can't do that, you're 19 a translator. 20 She was soliciting motorists 21 as they were walking in the building. I 22 said it's terrible. 23 Q Was she soliciting -- I 24 apologize. Keep going. 25 A Yeah. It was terrible what</p>	<p style="text-align: right;">Page 200</p> <p>1 M.H. Capogrosso 2 Is that true? 3 A No. That's not true. I 4 don't think I ever would have interrupted 5 another person in a conversation, that's 6 not what I do, absolutely not. 7 Q And she says the client did, 8 in fact, know that Ms. Paez was not an 9 attorney and was shocked at your 10 behavior. 11 She writes "Mr. Capogrosso 12 then turned to me and called me a variety 13 of vulgar and profane names and 14 threatened me with violence to stay away 15 from the Department of Motor Vehicles." 16 Is that true? 17 A No. It's absolutely a lie. 18 I would have been arrested for that, 19 Counselor. I would have been -- a police 20 report would have been filed and I would 21 have been arrested, arrested if that's 22 true. 23 Now you can say -- 24 Q Do you remember -- 25 A -- what you like. I would</p>
<p style="text-align: right;">Page 199</p> <p>1 M.H. Capogrosso 2 she was doing. I said I'm not having 3 this. 4 Q Was she soliciting these 5 motorists on your behalf to work for you? 6 A Well, it seemed like that 7 and as soon as I saw that happen, I said 8 that's it, no more, no more. You're not 9 supposed to solicit. You don't walk up 10 to clients. You're here as a translator. 11 Now she was doing it for 12 Diantha and Diantha didn't seem to have 13 any problem with it, which is the other 14 reason I didn't like Diantha because 15 Diantha was soliciting and Agnes was 16 soliciting. I said you girls do what you 17 want. I'm not going to engage in that. 18 Q So Ms. Paez writes that she 19 was speaking with a client on behalf of 20 Ms. Fuller when she was approached by 21 you. You then "stood in front of me and 22 told Ms. Fuller's client that I was not a 23 lawyer and he should not be speaking to 24 me. He then handed my client his 25 business card."</p>	<p style="text-align: right;">Page 201</p> <p>1 M.H. Capogrosso 2 have been arrested. 3 Q Do you remember this 4 incident? 5 A No, I absolutely do not. I 6 know I didn't like what she was doing 7 down there. Judge Gelstein condoned it. 8 There's nothing I could do about it. But 9 did I ever approach her, absolutely not. 10 There was no reason for me to. I had 11 plenty. 12 Q Why would -- why would 13 Ms. Paez lie? 14 A I don't know. Diantha 15 didn't like me. I saw what she was doing 16 soliciting. I let her go. I didn't want 17 to work with her anymore. 18 Q So you don't know why she 19 would lie? 20 A I don't know. What she's 21 saying here is not the truth. I have no 22 reason to interfere between two people. 23 I had no reason to interfere. I had 24 plenty of clients down there. My clients 25 liked me.</p>

20 (Pages 198 - 201)

<p style="text-align: right;">Page 202</p> <p>1 M.H. Capogrosso 2 Q So, Mr. Capogrosso, you're 3 telling us that a lot of people are 4 telling the same lie about you, that 5 they're all lying the same way, they're 6 all saying that you yelled and screamed 7 and cursed at them. Why would they all 8 tell the same lie? 9 A I have no idea. I'm 10 responding to each affidavit in kind, all 11 right. I'm responding to this affidavit 12 in kind. Let's just stick to this one. 13 Let's be very specific, not general. If 14 there's affidavits written against me, I 15 will address them. 16 Now, this affidavit -- 17 Q Well, I think it's -- 18 A Go ahead. 19 Q I'm sorry, Mr. Capogrosso, 20 sometimes when you speak you pause and I 21 think you're done with your response and 22 then I speak up. 23 A This affidavit states 24 generalizations, nothing specific. It 25 states in a violent manner. What exactly</p>	<p style="text-align: right;">Page 204</p> <p>1 M.H. Capogrosso 2 Q I mean if -- 3 A It's your allegations. 4 Well, tell me what I said. Tell me 5 exactly what was said. Give me an 6 opportunity to respond. 7 Q She's characterizing your 8 speech. She said you said vulgar and 9 profane names and threatened her with 10 violence. 11 A Well, first of all I did. I 12 would never talk to a woman like that, 13 but I want to know exactly what was said. 14 Tell me what was said. You can make -- 15 you know, I can write affidavits about 16 everybody down there. I can say the same 17 thing about somebody. 18 You can't make these blatant 19 accusations about people and don't give 20 the specifics. Exactly what was said? 21 If I threatened somebody with violence, I 22 would have been arrested. 23 Q She writes "Finally 24 Mr. Capogrosso told me to stay away from 25 him in a very violent manner, towering</p>
<p style="text-align: right;">Page 203</p> <p>1 M.H. Capogrosso 2 did I do? Towering over me, what exactly 3 did I do? Threatening, what exactly did 4 I do to threaten? Frighten, what did I 5 do to frighten? You tell me. I used 6 vulgar and profane names. Tell me the 7 names I used. Tell me exactly what I did 8 to threaten. 9 Now you might feel that, 10 that might be your perception, but tell 11 me the specifics that I actually did and 12 there are none listed here. 13 Q Well, she says that you 14 turned to her and you tried to get her to 15 stop speaking to somebody, you called her 16 a variety of vulgar and profane names and 17 you threatened her with violence. I mean 18 that may not be specific enough for you, 19 but it's pretty specific. 20 A Well, how exactly did I 21 threaten? What did I say, I'm going to 22 hit you? What did I say? 23 Q Does it matter what you 24 said? 25 A It does.</p>	<p style="text-align: right;">Page 205</p> <p>1 M.H. Capogrosso 2 over me and spoke so loudly and in a 3 threatening manner that a plain clothes 4 policeman standing next to me asked if he 5 needed to get involved." 6 Do you -- does that refresh 7 your recollection at all? 8 A No. I was never arrested 9 for anything. I did nothing wrong. 10 Obviously the cop understood that. 11 Q You know that you're a big 12 and intimidating guy. Do you ever get in 13 someone's personal space because you know 14 that -- 15 A Absolutely not, no. 16 Q What did -- 17 A I avoid situations. I don't 18 want a situation. I avoid if -- I 19 absolutely avoid. Will I confront when 20 necessary, yes. When it's on behalf of 21 my client, yes. 22 But if you're going to tell 23 me I threatened you, you better tell me 24 exactly what I said to threaten you. I 25 would never threaten a woman number one.</p>

<p style="text-align: right;">Page 206</p> <p>1 M.H. Capogrosso 2 Q Well, a number of people 3 have asserted that you did and we'll see 4 a couple more throughout the course of 5 the day. 6 A Well, let's go through them 7 one at a time. 8 Q All right. She writes 9 again, "I was especially nervous because 10 I am six months pregnant and I was in 11 fear his outbursts would turn violent." 12 A Well, you -- 13 Q Do you have any response to 14 that? 15 A You might have any 16 perception you want. I don't recall 17 having any altercation with this woman, 18 other than telling her I didn't want her 19 working for me anymore and as she was 20 soliciting motorists in the parking lot 21 and soliciting motorists on the DMV floor 22 and Diantha Fuller was condoning all 23 these actions. 24 Q So is Ms. Fuller lying here? 25 A About what? What's</p>	<p style="text-align: right;">Page 208</p> <p>1 M.H. Capogrosso 2 A I don't know why she's 3 lying, I have no idea, but what's -- if 4 you're going to accuse me of threatening 5 you, tell me the words I used or have me 6 arrested, but don't threaten -- don't say 7 something like that -- 8 Q All right. 9 A -- ruin my reputation and my 10 name and don't give me the specifics of 11 exactly what I did. 12 Q So let's move on to the next 13 exhibit. 14 MR. THOMPSON: And, 15 Ms. MacDonald, I can't recall whether 16 we had that marked, but that previous 17 exhibit, let's have that marked as 18 Exhibit 6 if hasn't been already. 19 Q Mr. Capogrosso, can you see 20 the exhibit? 21 A Ah, yes, all the clerks 22 don't like me. They're signing their 23 names, yes, yes. 24 Q So do you recognize this 25 document?</p>
<p style="text-align: right;">Page 207</p> <p>1 M.H. Capogrosso 2 Ms. Fuller's statements? 3 Q Well, she's passing along 4 this statement from her paralegal. 5 A Well, Ms. Fuller did not 6 observe it now, did she, so I don't know 7 what Ms. Fuller is observing. 8 Q But Ms. Paez is lying, is 9 that your testimony? 10 A I did not threaten a woman. 11 I would never threaten a woman in my 12 life. 13 Q So yes, she's lying? 14 A Yes, yes, absolutely lying. 15 Q And you have no -- and you 16 have no sense of why she would lie; is 17 that correct? 18 A I don't think you need a -- 19 I don't know why. We are all 20 competitive. We are all going after the 21 same summonses down there. All going 22 over the same summonses. Did the woman 23 like me, no. 24 Q So you think that's why 25 she's lying?</p>	<p style="text-align: right;">Page 209</p> <p>1 M.H. Capogrosso 2 A Yes, absolutely. 3 Q And what is this document? 4 A This is a complaint. This 5 was something -- 6 Q What is this document? 7 A I have no idea. Something 8 that all the clerks signed that Bushra 9 Vahdat had them sign. 10 Q And this document was 11 produced by us and it's Bates stamped DMV 12 lots of zeros 244; correct? 13 A Yeah. Yes. The clerks 14 didn't like me, I know that. 15 Q You see that down in the 16 lower right? 17 A Yeah. The clerks didn't 18 like me. I know that. 19 Q And so, Mr. Capogrosso, 20 what's this document? 21 A I don't know. This is an 22 affidavit by all the clerks. 23 Q It's not an affidavit. I 24 don't think there's a notarization or 25 anything.</p>

22 (Pages 206 - 209)

<p>1 M.H. Capogrosso 2 A I don't know what it is. 3 It's a bunch of signatures. 4 Q Either way -- 5 A It's a bunch of signatures 6 by people at the DMV. 7 MR. THOMPSON: Ms. 8 MacDonald, can we have this marked as 9 Exhibit 7? 10 (The above-referred-to 11 statement along with signatures was 12 marked as Exhibit 7 for 13 identification as of this date.) 14 Q And so the people who signed 15 this document, right, "We the undersigned 16 clerks, supervisors and judges of the 17 Brooklyn South Traffic Violations Bureau 18 state that we feel the presence of 19 attorney Mario Capogrosso on our premises 20 constitutes a threat to our physical 21 safety." 22 Why would they think that, 23 Mr. Capogrosso? 24 A I have no idea. Tell me the 25 specifics. I have no idea. You can't</p>	<p>Page 210</p> <p>1 M.H. Capogrosso 2 absolutely. How you perceive me, that's 3 up to you. What did I actually do is a 4 different situation. You can perceive me 5 in any manner you like. What did I 6 actually do? 7 Q What do you mean by strong 8 presence? 9 A I do have a strong presence. 10 I've been told that. I'm not -- 11 Q What do you mean by the term 12 strong presence? 13 A Well, I'm not afraid to 14 speak my mind. I'm not afraid to 15 confront. I'm not afraid to confront, 16 that's what lawyers do. I'm -- I -- I 17 state the truth, I get right to the issue 18 and I try to resolve it. That's who I am 19 as a person, as a man, as an attorney, 20 that's who I am. 21 If you perceive -- if you 22 have a perception of me that you feel, 23 tell me what I did. Give me an 24 opportunity to resolve it. Give me the 25 opportunity to resolve it. Don't just</p>
<p>1 M.H. Capogrosso 2 make allegations against a man and his 3 reputation if you don't give me the 4 specifics that occurred and give me an 5 opportunity to respond and resolve it. 6 Let me know what I did. 7 Q Did people -- 8 A I'd like to know. 9 Q Did people view you as a 10 threat to their physical safety? 11 A I don't know. I have no 12 idea, none. I can't answer that. They 13 might have. They -- 14 Q Did -- 15 A They might have. 16 Q Were they right to view you? 17 A I don't know. I am -- you 18 know, I was dealing with a lot of tough 19 guys down there, a lot of tough 20 motorists. There are tough guys down 21 there in Brooklyn, they are. I'm dealing 22 with a lot of tough guys. 23 And do I have a strong 24 presence, absolutely, I admit that. Do I 25 come across with a strong presence,</p>	<p>Page 211</p> <p>1 M.H. Capogrosso 2 make blatant accusations against a man. 3 Q When you say strong 4 presence, do you mean strong physical 5 presence? 6 A I have a strong physical 7 presence, a strong persona. People say 8 that when I walk in the room, they feel 9 me or they sense me. I don't know why, 10 they do. They -- I've been told this. I 11 don't know why. 12 I'm trying to figure out why 13 they feel intimidated by me. I don't 14 know why. But if they do, give me an 15 opportunity to resolve it. 16 Q But you knew that some 17 people felt intimidated by -- 18 A No, I did not. 19 Q -- you; is that correct? 20 A I did not. I did not. I 21 speak to everybody the same. I speak to 22 everybody the same. If you feel that 23 type -- if you feel that, give me an 24 opportunity to resolve it. Give me an 25 opportunity.</p>

<p>1 M.H. Capogrosso 2 Q But were you aware that 3 people were intimidated by your strong 4 physical presence? 5 A No, no. Absolutely not. 6 I'm sorry if -- I'm sorry if I have a 7 strong physical presence. I'm sorry. 8 You're allowed to have a strong physical 9 presence. You're allowed. You're 10 allowed. 11 Q So Mr. Capogrosso -- 12 A You have to let me finish. 13 I can't help that. You're allowed to 14 have that. 15 Q So Mr. Capogrosso, they 16 write "We believe that Mr. Capogrosso's 17 behavior is unstable and hereby state 18 that he has gotten into confrontations 19 with many of us in the past years" and 20 you'll see some of the names on this list 21 like Marisol Cervoni are the list of 22 people who have filed complaints or 23 otherwise indicated that they had 24 confrontations with you. 25 A Well, they --</p>	<p>Page 214</p> <p>1 M.H. Capogrosso 2 I'll talk to you about it later and 3 that's it. But now I'm not allowed to 4 talk to a clerk. I didn't know that 5 Cindy and George were dating and now I'm 6 not allowed to talk to Cindy. So I was 7 talking to Cindy. George got upset. He 8 starts yelling and screaming at me. I 9 said I'll talk to you about it later if 10 you want to talk and I said the word 11 talk. I didn't threaten anybody. I said 12 the word talk. 13 Q Who told you that you 14 weren't allowed to talk to someone? 15 A George was getting upset. 16 George was getting upset. I don't know. 17 I was talking -- 18 Q Were you flirting with -- 19 A I wasn't flirting. 20 Q Were you flirting with 21 Cindy? 22 A Cindy's a beautiful woman. 23 Cindy was a beautiful woman. Was I 24 flirting? I don't know if I was 25 flirting. Did I like Cindy? Cindy was</p>
<p>1 M.H. Capogrosso 2 Q They write "These 3 confrontations have been escalating to 4 the point where a physical confrontation 5 has nearly ensued between him and a 6 Brooklyn South employee on January 5, 7 2011 after the close of business." 8 Do you know what they're 9 referring to? 10 A Absolutely. I remember 11 that. Absolutely. 12 Q And what incident are they 13 referring to? 14 A I'm going to the counter on 15 a ticket. There's George and then 16 there's Cindy. Cindy is George's 17 girlfriend, I didn't realize this, but 18 she's a nice lady. I was talking to 19 Cindy. I actually thought Cindy was a 20 very pretty woman. I was talking to 21 Cindy. George is getting upset I guess. 22 I didn't realize they were dating. I had 23 no idea. 24 He starts yelling and 25 screaming at me. I said that's enough,</p>	<p>Page 215</p> <p>1 M.H. Capogrosso 2 very pretty. 3 When I found out that they 4 were dating, I said that's it. 5 Q What did you say to Cindy? 6 A I wasn't flirting. I 7 thought Cindy was a very attractive 8 woman. Marisol Cervoni is a very 9 attractive woman. 10 Q But what did you say to 11 Cindy on this day, January 5? 12 A I don't remember. I know it 13 was maybe how are you doing, what are you 14 doing for the weekend, are you going -- 15 you know, maybe something to that. I 16 don't know. I don't remember the 17 specifics. 18 But I do remember I liked -- 19 Cindy was a nice lady. She was a nice 20 lady and she was a beautiful woman. 21 Q Did you try to -- did you 22 try to fight Mr. Hon (phonetic)? 23 A No. Absolutely not. 24 Q Did you block in his car? 25 A Absolutely not. If you look</p>

<p style="text-align: right;">Page 218</p> <p>1 M.H. Capogrosso 2 at the -- 3 Q What happened? 4 A If you look at the affidavit 5 that George Hon wrote, George Hon wrote, 6 not what Bushra Vahdat said happened, 7 what George Hon wrote was that I was 8 sitting in my car, which I do after work, 9 to make phone calls to my clients, which 10 I'm required to do and that George 11 approached me, got out of his car. At 12 that point I get out of my car. 13 If somebody approaches me in 14 their car, stops their car -- if they 15 stay in the car, I stay in the car. If 16 you get out of your car, I'm getting out 17 of my car. And he approached me. That's 18 what George Hon wrote. Read it. 19 Q So did you have any sort of 20 confrontation with George Hon out in the 21 parking lot? 22 A I said what's the problem. 23 He started yelling and screaming at me 24 about this and that. I said what's the 25 problem. Then I find out they're dating.</p>	<p style="text-align: right;">Page 220</p> <p>1 M.H. Capogrosso 2 this petition where 18 people sign a 3 letter saying that they believe that 4 you're a threat to their safety and that 5 your behavior is unstable. 6 What do you think that the 7 TVB should have done about this petition? 8 A They should have shown it to 9 me, number one. They should have shown 10 it to me, number one. 11 Number two, they should have 12 told me exactly what I did, exactly what 13 I did and to give me an attempt to 14 resolve it. Give me an attempt to 15 resolve it. Give me the specifics, give 16 me a chance to apologize if I said 17 something wrong or I did something wrong. 18 Give me an opportunity to apologize. 19 Give me an opportunity to address it. 20 Tell me the specifics. 21 Now, the fact that you feel 22 intimidated by my presence, I can't help 23 that. I'm sorry, I can't. I am who I 24 am. I can't help it. I can't change it. 25 I am who I am. I've been very direct</p>
<p style="text-align: right;">Page 219</p> <p>1 M.H. Capogrosso 2 I said fine, hands off, I don't need this 3 aggravation. She's a nice woman, but I 4 don't need the aggravation. 5 Q So he yelled at you. You 6 didn't yell at him? 7 A I'm sitting in my car like I 8 do every day. Either I go there, I sit 9 in a park, sometimes I go to the beach. 10 I'm sitting there, I'm making phone 11 calls. I'm sitting in my car. 12 Read what George wrote and 13 then read what Bushra Vahdat wrote, some 14 story, I'm blocking people. Read what 15 George wrote. He approaches me. He gets 16 out of his car. I'm sitting in my car. 17 That's the truth. 18 Q And so did George and Bushra 19 lie? 20 A George didn't lie. Bushra 21 lied. Bushra lied. 22 Q Okay. 23 A Bushra should not be a judge 24 if you make up a story like that. 25 Q So, Mr. Capogrosso, you see</p>	<p style="text-align: right;">Page 221</p> <p>1 M.H. Capogrosso 2 with you, very direct to the Court. I am 3 who I am. 4 But if you feel that well, 5 maybe that's your own personal 6 insecurity. You might have personal 7 insecurities. They're not my 8 insecurities. They're your insecurities. 9 But give me the exact threats that I used 10 or what exactly I did. 11 But if you have personal 12 insecurity, don't put that personal 13 insecurity on me. 14 Q Mr. Capogrosso, so this is a 15 petition which 18 separate people say 16 that they think that you're unstable and 17 a threat to their safety. How do you 18 feel about that? 19 A I want to know the 20 specifics. I feel insulted, number one 21 and I feel improperly accused. Tell me 22 what I did. Give me an opportunity to 23 defend myself and respond and respond to 24 it and resolve it. Give me that 25 opportunity. Don't make --</p>

25 (Pages 218 - 221)

<p style="text-align: right;">Page 222</p> <p>1 M.H. Capogrosso 2 Q Do you think you did -- 3 A Don't make accusations and 4 don't give me an opportunity to respond. 5 Q Do you think you did 6 anything wrong to have 18 people feel 7 that you're a threat to their physical 8 safety? 9 A I want to know the exact 10 specifics. Tell me what I did. 11 Q I know, but that's not the 12 question. The question is -- 13 A No, I know. 14 Q -- do you think you did 15 anything wrong? 16 A I don't think I did anything 17 wrong, no, I do not. My clients loved 18 me. My clients -- 19 Q Do you think that -- do you 20 think that people get petitions written 21 about them with 18 signatures saying 22 they're a threat to their physical safety 23 if they haven't done anything wrong? 24 A I don't know why they wrote 25 it. Tell me what I did to threaten their</p>	<p style="text-align: right;">Page 224</p> <p>1 M.H. Capogrosso 2 A Sure. 3 MR. THOMPSON: So, 4 Ms. MacDonald, can I ask you to 5 please mark this as Exhibit 7 if you 6 haven't already. 7 Q One more quick note, 8 Mr. Capogrosso, you see how many of the 9 signatures on here, such as Marisol 10 Cervoni, supervisor as Roy Tucci, are 11 people who have already signed complaints 12 about your behavior; is that correct? 13 A Well, they signed 14 complaints, yes. Yes, I've seen the -- 15 you presented them, I've looked at the 16 complaints and I've addressed them. 17 Q And you feel that they were 18 wrong? 19 A I've already explained them 20 to you. The first time I saw them and 21 the first time I was given an 22 opportunity -- you want to talk about 23 Roy's? I didn't bump into him. Well, I 24 already explained my position on each 25 complaint --</p>
<p style="text-align: right;">Page 223</p> <p>1 M.H. Capogrosso 2 physical safety. Tell me what I did. 3 Listen, I'm a black -- 4 Q Do you think -- 5 A I'm a black belted martial 6 artist, I am. Can I handle myself, 7 absolutely. Am I more fearful what I 8 would do to somebody as to what they 9 would do to me, absolutely. I walk away 10 from confrontations all the time. I 11 don't want to get into it with anybody, I 12 don't. I've been studying martial arts a 13 long time. I've been in a boxing ring a 14 long time. I don't want to have a 15 confrontation with anybody, I do not. I 16 know how to handle myself. 17 That being said, if you feel 18 intimidated or threatened by me, I can't 19 help that. That's my persona. That's 20 who I am. 21 You tell me the specifics of 22 what I did and I will resolve it. 23 Q Well, there were a number of 24 complaints that we've discussed and more 25 that we will.</p>	<p style="text-align: right;">Page 225</p> <p>1 M.H. Capogrosso 2 Q Okay. 3 A -- that you've presented. 4 Q And so you feel -- is it 5 fair to say that you feel that these 6 complaints that they were threatened were 7 unfounded? 8 A They're unfounded because 9 there's no basis for them. Tell me what 10 I did. They're absolutely unfounded. 11 Tell me what I did. You don't have to 12 like me. You know, good attorneys are 13 not liked. I don't have to be liked to 14 do my job. I have to do my job. 15 People don't like me. 16 Either they like me or they hate me, I 17 know that, but I don't have to be liked. 18 I was not shown -- 19 Q I think we have been -- 20 A Well, I have not been trying 21 to endear myself to the clerks. I did 22 not. I was there to do a job. The one 23 time I tried doing it, talking to Cindy, 24 George got upset. 25 Q So let's move on to a new</p>

26 (Pages 222 - 225)

<p style="text-align: right;">Page 226</p> <p>1 M.H. Capogrosso 2 exhibit. I'm going to un-share my 3 screen.</p> <p>4 MS. REPORTER: Did you guys 5 take a lunch break yet before I came 6 on or --</p> <p>7 MR. THOMPSON: Would you 8 like one, Mr. Capogrosso?</p> <p>9 THE WITNESS: I don't need 10 my brakes.</p> <p>11 MR. THOMPSON: Ms. MacDonald 12 or Mr. Brodsky, you're also -- if you 13 would like one, we can certainly take 14 one. I'm perfectly happy to keep 15 going.</p> <p>16 MR. VIDEOGRAPHER: You can 17 proceed Counsel, please.</p> <p>18 MS. REPORTER: I mean I'd 19 like at least every hour and-a-half a 20 five minute break because you guys 21 are going -- and this is my fourth 22 deposition of the day, so --</p> <p>23 MR. THOMPSON: We can take 24 a -- we can take a five minute break 25 if you'd like.</p>	<p style="text-align: right;">Page 228</p> <p>1 M.H. Capogrosso 2 document?</p> <p>3 A Yes. I recognize the top, 4 yes. Is this the one from Yaakov? Yes, 5 absolutely, yes.</p> <p>6 Q And what is this document?</p> <p>7 A This is an affidavit from 8 Yaakov Brody about the incident that 9 occurred on December 22, 2011.</p> <p>10 Q And this is the document 11 marked P-92 in your production; correct?</p> <p>12 A Absolutely.</p> <p>13 MR. THOMPSON: And, 14 Ms. MacDonald, I'll ask that this 15 document be marked Exhibit 8.</p> <p>16 (The above-referred-to 17 statement was marked as Exhibit 8 for 18 identification as of this date.)</p> <p>19 Q So who is Yaakov Brody?</p> <p>20 A He's an attorney that works 21 down there.</p> <p>22 Q Did you have a good 23 relationship with him?</p> <p>24 A I never talked to the man. 25 I mean I never talked to him really. I</p>
<p style="text-align: right;">Page 227</p> <p>1 M.H. Capogrosso 2 MS. REPORTER: Sure.</p> <p>3 MR. THOMPSON: Why don't we 4 do that and reconvene at one 1:20.</p> <p>5 MR. VIDEOGRAPHER: Okay. 6 The time is 1:15. We are off the 7 record.</p> <p>8 (A short recess was taken.)</p> <p>9 MR. VIDEOGRAPHER: The time 10 is 1:20. We are on the record.</p> <p>11 MR. THOMPSON: Actually, I'm 12 having some problems here where it's 13 not letting me share my screen all of 14 a sudden.</p> <p>15 Actually, can we go back off 16 the record while I figure out what's 17 wrong here? My apologies.</p> <p>18 MR. VIDEOGRAPHER: Sure. 19 The time is 1:21. We are off the 20 record.</p> <p>21 (A short recess was taken.)</p> <p>22 MR. VIDEOGRAPHER: The time 23 is 1:22. We are on the record.</p> <p>24 Q Mr. Capogrosso, I'm showing 25 you a document. Do you recognize this</p>	<p style="text-align: right;">Page 229</p> <p>1 M.H. Capogrosso 2 knew he was down there, but I never 3 really had any conversation with him 4 until the morning of -- I thought it was 5 December 22nd of December. He says 6 December 21, 2011.</p> <p>7 Q And so you never talked to 8 him before this?</p> <p>9 A Not really, no. He --</p> <p>10 Q Okay.</p> <p>11 A He used to like to schmooze 12 with the clerks all the time. He was up 13 there for a half an hour at a time 14 talking to the clerks, not me.</p> <p>15 Q So Mr. Brody writes 16 "Mr. Capogrosso walked in and went to 17 reach for his briefcase which was lying 18 on the floor next to me. Mr. Capogrosso 19 then said excuse me so I could move over 20 so that he could get to his briefcase. 21 He already had plenty of time, but 22 regardless I shifted my body so he would 23 have even more room to reach for his 24 belongings."</p> <p>25 Do you recall any of this?</p>

<p style="text-align: right;">Page 230</p> <p>1 M.H. Capogrosso 2 A Yeah. It's not the truth. 3 I'll tell you what happened. I go in the 4 morning in the attorney's room, which is 5 about six feet long by about four feet 6 wide. It's a very small area. I get a 7 cup of coffee in the morning and the New 8 York Post. I get my coffee, I put it 9 under the bench -- under the bench with 10 my briefcase because I don't want my 11 coffee spilling on anybody's papers. 12 That day Brody is there. 13 He's right in front of my coffee. I say 14 excuse me, may I please get me coffee? 15 Excuse me, can I get my coffee? Brody 16 tells me excuse yourself, go fuck 17 yourself, you Jew hater anti-Semite. I 18 said what? 19 I get my coffee. I walk 20 away. I come back -- I go in the 21 courtroom, I argue a case. I come back, 22 put my coffee down where it was again and 23 Brody's right there, right -- right in 24 front of the coffee between -- the 25 coffee's under the bench. He's right</p>	<p style="text-align: right;">Page 232</p> <p>1 M.H. Capogrosso 2 anger management course. 3 Q And did anything happen 4 after that? 5 A That's it. Nobody took my 6 affidavit. Nobody asked me my story. 7 There's affidavit after affidavit after 8 affidavit here from lawyers who said they 9 were there, but the lawyer that was 10 actually there, me, got no opportunity to 11 explain what happened, nothing. 12 But Yaakov Brody gets to -- 13 who created this incident, told me to go 14 fuck myself twice, gets the opportunity 15 to write an affidavit. He states at one 16 point I'm going to hit you with my 17 briefcase. I'm not the type of guy who's 18 going to hit you with a briefcase. I'm 19 not. If there's an incident and I got to 20 defend myself I will, but I'm not going 21 to hit you with my briefcase. 22 A lying lawyer at the DMV 23 who wanted me out, for what reason I 24 don't know. I was making too much money 25 in his presence. That's what I stated</p>
<p style="text-align: right;">Page 231</p> <p>1 M.H. Capogrosso 2 where the bench is and he says to me 3 again -- I say excuse me, can I get my 4 coffee? He says excuse yourself, go fuck 5 yourself you Jew hater anti-Semite. 6 That's what I remember and 7 that's what happened. 8 Q And what happened after 9 that? 10 A Then after that he walked 11 out about 20 feet away, he's looking in 12 and Mr. Jeff Meyers came in to talk to me 13 as to what happened. 14 Q And then? 15 A And then I threw a punch in 16 the vicinity of a wall, not in the 17 vicinity of anyone. I didn't hit the 18 wall, I wasn't charged and I was not 19 arrested. I was mad. The guy just told 20 me to go fuck myself twice. I didn't hit 21 the wall. I didn't hit Jeff Meyers. 22 I threw a punch in the 23 vicinity of a wall. I didn't hit the 24 wall and I was not charged and I was not 25 arrested and I was required to take an</p>	<p style="text-align: right;">Page 233</p> <p>1 M.H. Capogrosso 2 and that's what I'll hold to. 3 Q So your testimony is that 4 Mr. Brody just said fuck you, you Jew 5 hater anti-Semite out of nowhere? 6 A Yeah. I walked in in the 7 morning as I always did. I get coffee at 8 the deli. I get a paper at the deli. I 9 like the Post. I take my coffee, before 10 I go in the courtroom I put it under the 11 bench. I do it the same way all the 12 time. 13 I was reaching for my 14 coffee, for whatever reason he decided to 15 come at me this morning. Do I think he 16 was put up to it? I think so. I think 17 Bushra Vahdat who had just come on maybe 18 wanted me out, I don't know and this was 19 her opportunity to get me out. So she 20 created this incident, that's my opinion. 21 I was blindsided. I can 22 have an opinion though. But this is the 23 first time I think I was blindsided. 24 That's my opinion. Vahdat, Gelbstein 25 wanted me out and maybe they put this</p>

<p style="text-align: right;">Page 234</p> <p>1 M.H. Capogrosso 2 attorney up to it because out of the blue 3 he just happens to say this. 4 My mind was -- 5 Q Why would -- 6 A You got to let me finish. 7 My mind was someplace else. It was right 8 around Christmas time. I'm not really 9 thinking. I'm thinking about I got to 10 buy Christmas presents and what I'm 11 buying for who. That's where my mind was 12 on that morning. But that's what 13 happened. 14 Q Why would Bushra Vahdat and 15 Alan Gelbstein want you out? 16 A Bushra Vahdat -- well, they 17 had complaints against me from the 18 clerical staff, right and they had to 19 have a reason to have me removed and this 20 would have been an excellent reason, 21 right. They had all these complaints 22 that they were filing against me. There 23 was no sum and substance to any of them, 24 right. 25 But in order to get me</p>	<p style="text-align: right;">Page 236</p> <p>1 M.H. Capogrosso 2 What right does this man 3 have to call me an anti-Semite Jew hater? 4 Q So why would he think that 5 you're a Jew hater anti-Semitic? Why 6 would he say that out of nowhere? 7 A Let me know. I'd like -- 8 why don't you ask him? Why don't you ask 9 him? Ask this Mr. Yaakov Brody. 10 Q Had you ever -- 11 A I'm making too much money in 12 his presence? I don't know. I'm an 13 Italian America down there. I'm 14 surrounded by Jewish lawyers. Most of 15 the lawyers down there are Jewish. Most 16 of the judges are Jewish. 17 Maybe I'm making too much 18 money. I don't know. Maybe I saw what 19 Judge Gelbstein was doing with the ticket 20 brokers. I don't know. But this guy had 21 it in for me -- 22 Q Had -- 23 A -- and I took the bait. 24 Q Had you ever discussed Jews 25 or Judaism with Mr. Brody before this?</p>
<p style="text-align: right;">Page 235</p> <p>1 M.H. Capogrosso 2 removed they needed an incident like 3 this, so they created one. They 4 didn't -- they didn't have no -- they had 5 no basis to grieve me. There was no 6 grievance filed against me. They grieved 7 in Emig Tieg (phonetic) in Manhattan 8 North because they had a basis for that, 9 but they had no basis to grieve me 10 because there was no sum or substance to 11 any of these complaints, otherwise they 12 would have, so they created an incident. 13 That's my opinion. 14 And I was blindsided. My 15 mind was someplace else, it was Christmas 16 time and I took the bait. I did the 17 right thing. I did throw a punch at a 18 wall. I didn't hit the wall because I 19 was upset. What makes me a Jew hater 20 anti-Semitic? What nerve does this 21 attorney have to call me a Jew hater 22 anti-Semitic? I'm working down there 10 23 years. There's not one complaint from a 24 motorist or a client that I used an 25 anti-Semitic remark or a racist remark.</p>	<p style="text-align: right;">Page 237</p> <p>1 M.H. Capogrosso 2 A Absolutely not. Listen, I 3 was there 10 years, 10 years I was there. 4 Look at the complaints against me. Not 5 one client or motorist made a statement 6 that I made an anti-Semitic or a racist 7 remark, not one. 8 Now I have to have this 9 lawyer call me a Jew hater anti-Semitic. 10 For what reason? 11 Q So had you had conversations 12 with Jews -- about Jews or Judaism at all 13 with anyone previous to this? 14 A No. I don't -- no, no. I 15 don't care who you are, what religion you 16 are. I'm Catholic. I don't care what 17 you want to be. You're Jewish, fine. Do 18 whatever you like. God bless. I could 19 care less. 20 You look at the motorists 21 and the clients that I represented, 22 they're all nationalities, all races, all 23 of them. Not one indicated I made an 24 anti-Semitic or a racist remark and I'm 25 dealing with thousands, almost 850</p>

<p style="text-align: right;">Page 238</p> <p>1 M.H. Capogrosso 2 clients I had on the docket. I'm dealing 3 with hundreds of clients on a monthly 4 basis. Not one made a statement that I 5 made any type of statement, any type of 6 racist or anti-Semitic statement, not 7 one.</p> <p>8 I took this very personally 9 and I had to go to an anger management 10 course because I did take it personally.</p> <p>11 Q So Mr. Brody writes that 12 "Mr. Capogrosso lashed out at me and said 13 he was being nice by saying excuse me and 14 next time he would simply hit me with his 15 briefcase" and you said you never said 16 that; correct?</p> <p>17 A I would never hit you with 18 my briefcase. If I'm going to hit you, 19 I'm going to hit you. If I'm going to -- 20 if I have to -- if it comes to the point 21 where I've got to hit you, I'm going to 22 hit you. All right.</p> <p>23 If I have to defend myself 24 against a physical attack, a knife, a 25 gun, I'm going to hit you or I'm going to</p>	<p style="text-align: right;">Page 240</p> <p>1 M.H. Capogrosso 2 the room?</p> <p>3 A I remember -- let me think. 4 The first time, no, it was just me and 5 him.</p> <p>6 The second time I went back 7 and I put my -- I went to the courtroom 8 and I came back and I said this guy 9 must -- I don't know. He was there in 10 the same location. My coffee, I put my 11 coffee back under the chair. He was 12 exactly in the same exact location as the 13 first time.</p> <p>14 At that time -- who was in 15 there at that time? I think -- there was 16 another attorney. It wasn't Rick Maher, 17 that I know. He wasn't there. There was 18 another lawyer there, but I forgot the 19 guy's name. I forgot. There was one 20 other lawyer there, but I forgot the 21 guy's name. It wasn't Meyers, but there 22 was another lawyer there.</p> <p>23 Q So he writes that you took a 24 seat across from Mr. Brody and complained 25 that you didn't -- that he didn't give</p>
<p style="text-align: right;">Page 239</p> <p>1 M.H. Capogrosso 2 get hit, but I'm not going to hit you 3 with my briefcase. That's not something 4 I would do.</p> <p>5 This guy, Yaakov Brody, I 6 don't know what type of man he is, but 7 I'm not going to hit you with my 8 briefcase. That's an absolute lie. I am 9 not the type of guy who's going to hit 10 you with a briefcase.</p> <p>11 Q So he writes that you 12 proceeded to tell him that the next time 13 you see him you better get out of his 14 way.</p> <p>15 A That's not true.</p> <p>16 Q Did you say that?</p> <p>17 A No, absolutely not. Get out 18 of my way for what reason? We are both 19 working in the same building. How is he 20 going to get out of my way? We are both 21 attorneys at the same location. How is 22 he going to get out of my way?</p> <p>23 Q He writes that there were 24 three other attorneys in the room. Do 25 you remember there being anyone else in</p>	<p style="text-align: right;">Page 241</p> <p>1 M.H. Capogrosso 2 you enough room. He continued to ignore 3 you he says.</p> <p>4 Then he writes, quote, 5 "Eager to show how angry he really was, 6 he took his coffee cup which still had 7 some coffee inside and threw it my 8 direction toward the garbage can that was 9 next to me."</p> <p>10 Did you throw the garbage -- 11 the coffee cup?</p> <p>12 A First of all, we are in a 13 lawyers' room that's six feet by about 14 four feet wide. There's bench on either 15 side. All right. I'm allowed to go in 16 the lawyers' room. Even after -- I'm 17 allowed to go in. My briefcase was in 18 there, number one. I wanted to make sure 19 nobody touched my briefcase. I had my 20 files in it.</p> <p>21 Number two, my coffee's 22 still there in the lawyers' room because 23 I can't bring it into a courtroom. So I 24 get my coffee now. Now, I'm sitting 25 there and he comes in and sits there next</p>

<p style="text-align: right;">Page 242</p> <p>1 M.H. Capogrosso 2 to the garbage can, this Brody. I finish 3 my coffee cup. I said this guy is going 4 to start in on me again. Now he's going 5 to come at me for the third time. I 6 finish my coffee and as I'm leaving, he's 7 sitting right next to the coffee -- right 8 next to the garbage can. I threw my 9 empty cup, which I'm allowed to do, into 10 a garbage can. I didn't throw it at him. 11 I threw it into a garbage can and I 12 walked out.</p> <p>13 And he came -- when I was in 14 there first and then he comes back in for 15 a third time and then he goes -- then 16 what do you call it, Meyers comes in, 17 into there and says what's going on, Jeff 18 Meyers who was a lawyer. That's what 19 happened that day.</p> <p>20 Q So Mr. Brody writes that "I 21 complained to Mr. Capogrosso that this 22 was not civilized behavior and I did 23 nothing to warrant such hostility.</p> <p>24 Enraged, Mr. Capogrosso went on a rant on 25 how I was a, quote, Jew fucking cunt, a</p>	<p style="text-align: right;">Page 244</p> <p>1 M.H. Capogrosso 2 the statement. I know I was mad. I was 3 mad and I did take an anger management 4 course and I was blindsided, but all I 5 did was say excuse me can I get my 6 coffee.</p> <p>7 And if you look at the 8 affidavit from Tahir, it states that I 9 said excuse me twice. That's all I have 10 to say about that.</p> <p>11 Q Mr. Brody writes that after 12 that you went on to say that the place 13 was run by Jews. Did you say that?</p> <p>14 A I don't recall saying that, 15 but all the --</p> <p>16 Q Did you --</p> <p>17 A There are Jewish -- Judge 18 Gelbstein is Jewish. It's a true 19 statement. It is a true statement. Most 20 of the judges down there, it's a true 21 statement. Bushra Vahdat is a Jew. Ida 22 Traschen is a Jew. I am an Italian 23 American.</p> <p>24 Is it a true statement, 25 yeah. Did I say that? I don't recall</p>
<p style="text-align: right;">Page 243</p> <p>1 M.H. Capogrosso 2 phrase which he repeated about six or 3 seven times."</p> <p>4 What's your memory of what 5 happened here?</p> <p>6 A Well, I might have said 7 that.</p> <p>8 MS. REPORTER: Wait, hold 9 on. My machine just stopped writing. 10 Let me read what I have and then pick 11 up from there.</p> <p>12 (The requested portion was 13 read back by the Court Reporter.)</p> <p>14 A Well, the man just told me 15 to go fuck myself twice, I'm a Jew hater 16 anti-Semite. Now out of the blue I'm 17 making a statement like this, you Jew 18 fucking cunt? First of all, he is a Jew. 19 The word fucking, I might have used that 20 and the C word, I'm not sure.</p> <p>21 But was he acting like a 22 real man on that date provoking a fight 23 when I say excuse me, can I get a cup of 24 coffee?</p> <p>25 I mean I don't recall making</p>	<p style="text-align: right;">Page 245</p> <p>1 M.H. Capogrosso 2 saying it. But is it a true statement, 3 yeah, most of the judges in the Brooklyn 4 TVB were Jewish, yes. Most of the 5 lawyers were Jewish.</p> <p>6 I'm trying to understand in 7 my head why this guy is telling me to go 8 fuck myself, I'm a Jew hater anti-Semite 9 when I've been there since 2005 and you 10 don't have a complaint or an allegation 11 from a client that I ever acted in this 12 manner or said anything to a client or 13 motorist.</p> <p>14 What is making this guy say 15 this to me I'm trying to think and I 16 still can't figure it out, other than he 17 was put up to it, other than he was put 18 up to it and I took an anger management 19 course because I did throw a punch at a 20 wall and I should not have thrown -- have 21 done that, but I -- what do you want me 22 to do? I'm a human being.</p> <p>23 Q So I'm not sure if I was 24 quite clear. Did you -- did you actually 25 say that the place was run by Jews?</p>

<p style="text-align: right;">Page 246</p> <p>1 M.H. Capogrosso 2 A I don't recall saying that, 3 but is that true that it is mostly Jewish 4 judges, yes, that's a true statement. Do 5 I remember saying it, no, I don't 6 remember saying it. But is it true, yes, 7 it is true.</p> <p>8 All my accusers in this 9 case, Judge Gelbstein, Ida Traschen, 10 Bushra Vahdat, Yaakov Brody who started 11 this is Jewish, are Jewish. I'm an 12 Italian American. That's a true 13 statement.</p> <p>14 Q Do you think -- does it make 15 a difference that they're Jewish or that 16 you're Italian?</p> <p>17 A No. I don't care who you 18 are. I treat everybody the same. I 19 treat everyone respectfully. I treat 20 everyone respectfully. Look at the --</p> <p>21 Q And do you --</p> <p>22 A Look at my clients, there's 23 not one accusation from a client that I 24 used -- and there's all different 25 nationalities I'm dealing with down in</p>	<p style="text-align: right;">Page 248</p> <p>1 M.H. Capogrosso 2 bad choice. Who else was there? 3 Esposito, he gave me a -- he eventually 4 got better, but at the start he was very 5 tough.</p> <p>6 But the best judges at the 7 start for me doing my job were Bonstein, 8 Tilman and Chauney. They were the best. 9 Abish (phonetic) was great in a courtroom 10 for a lawyer in dealing with these cases.</p> <p>11 Q So, Mr. Capogrosso, 12 yesterday at his deposition Judge 13 Gelbstein testified that you called him 14 to his face a beanie wearing Kike; is 15 that true?</p> <p>16 A That's an absolute lie.</p> <p>17 That is an absolute lie. That judge 18 should be taken off the bench for making 19 a statement like that. That is an 20 absolute lie. That is a judge who wrote 21 that affirmation after I was removed from 22 the Brooklyn TVB because of this incident 23 in 2011 he wrote that affirmation. You 24 don't see that -- you don't see that 25 documented anyplace until after I was</p>
<p style="text-align: right;">Page 247</p> <p>1 M.H. Capogrosso 2 Brooklyn TVB, Russian, Jewish, Italian, 3 Arabic, Muslim, not one from a client or 4 a motorist, that I used an anti-Semitic 5 or racist remark.</p> <p>6 The only racist here is 7 Judge Gelbstein who told me a spade is a 8 spade.</p> <p>9 Q Does it make a difference 10 that many of the people in leadership at 11 the DMV are, in fact, Jewish?</p> <p>12 A No. I could care less. God 13 bless, you got a job, God bless. 14 Actually, the best judges were the Jewish 15 judges. In a courtroom, Gelbstein gave 16 you the best chance. Bonstein 17 (phonetic), I mean not Gelbstein, 18 Bonstein gave you a great chance to win. 19 Chauney (phonetic) gave me a great 20 chance. Tilman gave me a great chance to 21 win. What do you call it?</p> <p>22 The best judges were the 23 Jewish judges in the courtroom for me. 24 Walters gave me good -- Walters gave me a 25 terrible choice to win. Ross gave me a</p>	<p style="text-align: right;">Page 249</p> <p>1 M.H. Capogrosso 2 removed.</p> <p>3 That is an absolute lie by 4 that judge. He doesn't indicate the 5 circumstances for which I said it or does 6 anybody corroborate it, anybody witnessed 7 it. That is an absolute lie and that 8 judge should be removed because he made 9 that statement to get me kicked out and 10 that is why I'm looking for punitive 11 damages.</p> <p>12 That is a lying lawyer 13 acting as a judge who should be taken off 14 the bench.</p> <p>15 Q And why at this point did he 16 want you kicked out?</p> <p>17 A I don't -- why did he 18 want -- you saw all the affidavits 19 written about me. He wanted me out. You 20 saw all the clerks' affidavits. He 21 wanted me out. I was -- maybe I was 22 making too much. I don't know why. He 23 wanted to keep things nice and quiet down 24 there so he could get a piece of the 25 action.</p>

<p style="text-align: right;">Page 250</p> <p>1 M.H. Capogrosso 2 I don't know why he wanted 3 me out, but I never made that statement. 4 Never made that statement to him. 5 Q So Mr. Brody writes that 6 when he protested to you how he could use 7 the language about being Jewish that you 8 stated "What do you care, just call me a 9 fucking Italian ginny." 10 A That should be Gini, but I 11 never said. I don't recall saying that. 12 Q You never said that? 13 A No. I know I was upset. I 14 walked in that morning and I was having a 15 personal problem with some woman I was 16 dating at the time and I'm thinking what 17 present I have to buy her and my head was 18 not there with buying this woman a 19 present and next thing you know I get 20 blindsided because I'm saying excuse me, 21 can I get my coffee and he blindsided me. 22 Q And is it safe to say so 23 you -- let me withdraw that question. 24 So, Mr. Capogrosso, you 25 believe that Mr. Brody lied in this</p>	<p style="text-align: right;">Page 252</p> <p>1 M.H. Capogrosso 2 out of the Screen Share. 3 (The above-referred-to 4 statement was marked as Exhibit 9 for 5 identification as of this date.) 6 Q Mr. Capogrosso, can you see 7 this document? 8 A Yes. 9 Q And this document is from 10 your production marked P-250; correct? 11 A Yeah. This is from Richard 12 Maher, yes. 13 Q And what is this document? 14 A Well, that was an affidavit 15 that another attorney got to write, I 16 never got to write my affidavit as to 17 what happened, who was not even in the 18 room that day. Maher was not even in the 19 room. I know Brody was in the room at 20 the first one, the time he said excuse 21 me, go fuck yourself. 22 And then the second time 23 there was another attorney, I forgot the 24 guy's name, but it wasn't Maher. Maher 25 was not even in the room. I don't think</p>
<p style="text-align: right;">Page 251</p> <p>1 M.H. Capogrosso 2 complaint; correct? 3 A Absolutely, the whole thing, 4 the whole thing. I pointed them out. 5 I'm not hitting you with my briefcase. I 6 am not going to hit you with my 7 briefcase. I never heard of such 8 nonsense. I am not the type of guy who's 9 going to hit you with a briefcase. I 10 never heard of that nonsense. 11 There's no reason for me to 12 act like this in the morning when I say 13 excuse me to the man. I go from excuse 14 me to go fuck -- I go from that, I say 15 excuse me, I'm trying to be polite. 16 Come on, a lying lawyer at 17 the DMV wanted me out. I don't know why. 18 I think Bushra Vahdat and Alan Gelbstein 19 put him up to it. That's my opinion. 20 Q Okay. So let's move on. 21 MR. THOMPSON: This I 22 believe was marked as Exhibit 8. If 23 we didn't do that, let's please mark 24 it that way. 25 Let me close out of this and</p>	<p style="text-align: right;">Page 253</p> <p>1 M.H. Capogrosso 2 he was even there that day, but I'll go 3 through it, what I remember. 4 Q So who is Richard Maher 5 before we get too far? 6 A He's a lawyer down there 7 that worked at the TVB. 8 Q Did you have a good 9 relationship with Mr. Maher? 10 A I never talked to the guy 11 that much. 12 Q And for the transcript Maher 13 is M-A-H-E-R; correct? 14 A I don't know how he spells 15 his name. I don't know. 16 Q It's spelled that way on 17 here. 18 A Right. I don't know how he 19 spells it. 20 Q So is it correct to say that 21 this statement corroborates Mr. Brody's 22 account? 23 A I don't know. I don't know. 24 That's his version. I don't know if it 25 corroborates it or not. I don't know.</p>

<p style="text-align: right;">Page 254</p> <p>1 M.H. Capogrosso 2 He wasn't in the room. They could be 3 making up -- they could have corroborated 4 the story after the fact. 5 The man was not in the room. 6 I know who was in the room. I was there. 7 This man was not in the room. 8 Q So it's your testimony that 9 Mr. Maher made up what's in this 10 statement? 11 A Well, tell me exactly which 12 portions. He was not in the room that 13 day. I remember it very, very 14 distinctly. 15 Q Sure. 16 A He was not in the room. 17 When Brody came in and I said excuse me, 18 me and him were the only ones there. 19 When I came back again, 20 there was another attorney there. I 21 forgot the man's name. It wasn't this 22 attorney. Maher was never anyplace to be 23 seen. 24 Q So first off I'll note he 25 says that the lawyers' room can</p>	<p style="text-align: right;">Page 256</p> <p>1 M.H. Capogrosso 2 Capogrosso grumbled about Mr. Brody's 3 lack of decorum and began to berate 4 Brody." 5 So that's basically the same 6 version of events that Mr. Brody said; 7 correct? 8 A No, it's not. It's not what 9 happened. I'm not looking to sit down. 10 I'm looking to get my coffee. I have to 11 go in the -- I'm looking to get my 12 coffee. I'm not looking to sit down. I 13 said excuse me, can I get my coffee. 14 Those are the words I actually stated. 15 I'm not looking to sit down. 16 My coffee is already under the bench. My 17 briefcase is already under the bench. 18 I'm looking to get my coffee so I can 19 have some coffee before I go into the 20 courtroom to argue my cases. I'm not 21 looking to sit down. It's not correct. 22 Q And when he says that you 23 began to berate Brody; is that correct? 24 A No. I said excuse me very 25 politely, can I get my coffee. He said</p>
<p style="text-align: right;">Page 255</p> <p>1 M.H. Capogrosso 2 accommodate up to a dozen attorneys; is 3 that right? 4 A The lawyers' room is 5 precisely I would say six to eight feet 6 long, five feet wide. There are benches 7 that are at least, what, a foot in width, 8 so that leaves about three feet to walk, 9 three feet between the benches. Eight 10 feet, six to eight feet long, five feet 11 wide, the benches are a foot, that's the 12 dimensions. 13 I don't think it could fit 14 12, no. I don't believe so, no. 15 Q Mr. Maher writes "When 16 Mr. Capogrosso entered, he asked 17 Mr. Brody to move so he could sit. 18 Mr. Brody did his best to reasonably 19 comply with this request. The bench 20 contained the belongings of other 21 attorneys and Brody in fact tried to make 22 more room so that Capogrosso could sit." 23 Then there's a parenthetical here. 24 "Far from acknowledging 25 Mr. Brody's attempt to show him courtesy,</p>	<p style="text-align: right;">Page 257</p> <p>1 M.H. Capogrosso 2 excuse yourself, go fuck yourself you Jew 3 hater anti-Semite, at which point I took 4 my coffee and I walked away. I came 5 back, I put my coffee under it. He -- I 6 had some coffee, I put it back under the 7 bench so I could go argue my case. 8 I come back, he's standing 9 in the same place again and tells me 10 again excuse myself, go fuck myself. 11 Q Mr. Maher writes "Capogrosso 12 then began to inveigh against Brody in 13 vituperative terms as his temper 14 continued to rise beyond all reason given 15 the fact that Brody was extending 16 courtesy to him by now under duress." 17 A That -- this is an absolute 18 lying lawyer at the DV -- at the TVB 19 again. 20 Q So why would Mr. -- 21 A I don't -- 22 Q Why would Mr. Maher lie? 23 A Let me finish. Okay. 24 Finish your question. Go ahead. 25 Q I'm sorry. Part of the</p>

<p style="text-align: right;">Page 258</p> <p>1 M.H. Capogrosso 2 problem is you speak and then you pause 3 and then I think you're done and then I 4 start talking. 5 A What's the question? 6 Q So why would Mr. Maher lie? 7 A Ask Mr. Maher. I have no 8 idea. This is not what happened. I'm 9 telling you what happened. I'm not 10 getting this angry over nothing. I'm not 11 getting this angry if Brody didn't 12 approach me and tell me to go fuck myself 13 twice. I'm not getting angry like this 14 and upset like this if the man didn't 15 approach me and tell me to go fuck myself 16 twice when all I said to the man was 17 excuse me, can I get my coffee. 18 Now write whatever you like, 19 but no man's going to get angry like this 20 unless he's told to go fuck himself 21 twice. 22 Q So you have no idea why 23 Mr. Maher would write this? 24 A I have no idea. Maybe 25 they're friends. I don't know. I don't</p>	<p style="text-align: right;">Page 260</p> <p>1 M.H. Capogrosso 2 required to do a job. You know, I choose 3 my friends very carefully. I get -- you 4 know, I choose them very carefully. I 5 don't have to like everybody in this 6 world. 7 Did I like his approach, no, 8 but he had -- he had his right to do his 9 job. I had a right to do my job. 10 Q Mr. Maher -- 11 A I don't have to like you. 12 Q Mr. Maher writes again that 13 your remarks, quote, "became intensely 14 personal, directed at Brody, his person 15 and his culture, his ethnicity and his 16 very humanity." Is that true? 17 A He told me to go fuck myself 18 twice. Did I call him a fucking Jew 19 cunt? I probably called him a fucking 20 something. I don't remember exactly the 21 words I did, but if you're going to tell 22 me to go fuck myself, I am going to 23 respond, all right. 24 Q So this -- 25 A If you tell me to go fuck</p>
<p style="text-align: right;">Page 259</p> <p>1 M.H. Capogrosso 2 know. 3 Q Do you have a suspicion? 4 A No. I don't know. Maybe 5 they're two Jewish American attorneys and 6 I'm an Italian American attorney and 7 they're ganging up on me. I don't know. 8 You figure it out. You ask them. I 9 don't know. 10 Q Did you -- 11 A That's a fact. He -- 12 Q Did you think that 13 Mr. Maher -- 14 A I don't know. Go ahead. 15 Q Did you think Mr. Maher 16 wanted you out? 17 A I don't know if he did or 18 not. I never talked to the man. I 19 didn't like him. I didn't like the way 20 he handled cases. Did I like the man, 21 no. Did I dislike him, no, I really 22 didn't care. He had a job to do, I had a 23 job to do. 24 I wasn't -- I wasn't 25 required to like other attorneys. I was</p>	<p style="text-align: right;">Page 261</p> <p>1 M.H. Capogrosso 2 myself twice, that I'm an anti-Semite Jew 3 hater, that I'm making too much money 4 it's my opinion in your presence, I'm 5 going to respond. I'm going to respond. 6 I think any normal man would respond, 7 whether an attorney or not. Outside of a 8 courtroom when it's not -- any normal man 9 is going to respond to an accusation like 10 that. 11 So is this man lying, yeah, 12 he's lying. 13 Q So Mr. Maher writes, quote, 14 "Nothing Brody did or said during 15 Capogrosso's verbal attack was in any way 16 provocative or confrontational." 17 A Well, first of all -- 18 Q Do you see that? 19 A Yeah. Maher wasn't in the 20 room on the first instance. He wasn't 21 there on the second incident either, so 22 he doesn't know what Brody said to me. 23 Brody told me excuse yourself, go fuck 24 yourself, you're a Jew hater anti-Semitic 25 twice, not once, twice. The first time I</p>

<p style="text-align: right;">Page 262</p> <p>1 M.H. Capogrosso 2 walked away. The second time I said 3 what's going on with this guy. He said 4 it twice to me and I was never given an 5 opportunity to write my affidavit. 6 Q So Mr. Maher writes that 7 Mr. Brody spoke up strongly, quote, "when 8 Capogrosso referred to him as a fucking 9 Jew cunt." 10 So there's the language 11 again. Does that refresh your memory at 12 all? 13 A Did I say something to 14 Brody, yeah. Yeah, I did. I don't know 15 if I called him a Jew cunt. Is he a Jew, 16 yeah. Did I use the word fuck, I might 17 have. Was he acting like a man at this 18 point, no, not in my estimation. 19 If you provoke a fight like 20 that and you say this out of the blue, 21 was he acting like a real man, no, he 22 wasn't acting like a man. 23 Did I use those words? I 24 don't think I used the word -- I don't 25 know what I said, but I probably said</p>	<p style="text-align: right;">Page 264</p> <p>1 M.H. Capogrosso 2 A Michael Beer was the other 3 attorney in the room the second time. 4 The second time Beer was there. Now you 5 refreshed it, yeah. Michael Beer was the 6 other attorney. He wasn't there the 7 first time. He was there the second 8 time, that I remember, Beer. Beer was 9 there. 10 When Brody was standing in 11 front of the coffee again and I said 12 excuse me, can I get my coffee, so Beer 13 was in the -- was in the room the second 14 time that Brody did this to me. 15 Q And Mr. Maher writes that 16 you, quote, "expressed the belief that 17 the DMV was in fact run by fucking Jew 18 cunts;" is that correct? 19 A I don't remember saying that 20 exactly. I don't remember saying that, 21 no. Is it run by Jewish judges and 22 lawyers, yeah. Am I an Italian American, 23 absolutely. Did Judge Gelbstein give me 24 an opportunity to write my affidavit and 25 response, no. Did Bushra Vahdat give me</p>
<p style="text-align: right;">Page 263</p> <p>1 M.H. Capogrosso 2 something, but I don't know exactly what 3 I said, but I did say something. I was 4 mad. The man got me -- 5 Q He said -- 6 A The man blindsided me, got 7 me thrown out of the DMV, blindsided me. 8 I was thrown out of the DMV the next day 9 by Gelbstein telling me I'm not welcome 10 here anymore. I was never given an 11 opportunity to write an affidavit to say 12 what I had to say, my version of the 13 story, by anybody. 14 Judge Gelbstein, Bushra 15 Vahdat, Ida Traschen, never given an 16 opportunity to write my affidavit, where 17 every attorney got an opportunity to 18 write an affidavit. I was thrown out. I 19 had to take an anger management course 20 that cost me \$10,000. So was I upset 21 that day, yeah, I was upset. 22 Q Mr. Maher writes that 23 Michael Beer spoke up and said that you 24 crossed the line of decency. Do you 25 remember Michael Beer saying anything?</p>	<p style="text-align: right;">Page 265</p> <p>1 M.H. Capogrosso 2 an opportunity, no. Did Ida Traschen, 3 no. They accepted this all as truth, 4 these affidavits, giving me no 5 opportunity to respond. 6 Now, most of the judges down 7 there are Jewish. The best -- the best 8 judges in the courtroom were Jewish, I'm 9 not going to deny that, they were, but 10 these Jewish judges gave me no 11 opportunity to respond. 12 Q So let's move on to the next 13 exhibit. 14 A Please. 15 Q Mr. Capogrosso, can you see 16 this exhibit? 17 A Yes. 18 Q And you can see this is from 19 your production and marked P-96; correct? 20 A Yes. This is a Sadiq Tahir, 21 yes. 22 Q Do you recognize this 23 document? 24 A Yes. 25 Q And what is it?</p>

<p style="text-align: right;">Page 266</p> <p>1 M.H. Capogrosso 2 A It's an affidavit from 3 Tahir, another attorney, who had the 4 opportunity to write an affidavit and I 5 didn't as to what happened. 6 MR. THOMPSON: And, 7 Ms. MacDonald, can we mark this as 8 Exhibit 10. 9 (The above-referred-to 10 statement was marked as Exhibit 10 11 for identification as of this date.) 12 Q So, Mr. Capogrosso, who is 13 Sadiq Tahir? 14 A He's a lawyer at the 15 Brooklyn TVB. We were friends at one 16 point in time, really good friends. We 17 used to go out drinking together. 18 Q When was that? 19 A Before this incident. We 20 used to go out all the time. We used to 21 hang out at the same clubs. We used to 22 hang out. We both drank. We used to go 23 out drinking in Brooklyn. 24 Q Mr. Capogrosso, do you know 25 what Mr. Tahir's current status is?</p>	<p style="text-align: right;">Page 268</p> <p>1 M.H. Capogrosso 2 did. He says that and I did say that. 3 Maybe he was in the room. I don't know. 4 "He moved to the side to 5 reach for his bag lying under the" -- "he 6 then said again excuse me." I'm saying 7 excuse me twice. Now Brody says why are 8 you being rude, you have enough -- I said 9 I didn't have enough room. If I 10 didn't -- if I had room enough to get my 11 coffee -- this -- why would I say excuse 12 me? 13 That's when Brody says 14 excuse yourself, go fuck yourself, I'm a 15 Jew hater anti-Semite. 16 Q So up until this point when 17 he talks about saying excuse me, is 18 Mr. Tahir's account correct? 19 A I don't know. What point? 20 Mr. Capogrosso walked into the room. I 21 did do that. I said excuse me. I did do 22 that. I was looking for my coffee. Now, 23 Brody didn't move away. I had to say 24 excuse me twice. I had to say it twice. 25 I have to be expelled from</p>
<p style="text-align: right;">Page 267</p> <p>1 M.H. Capogrosso 2 A I think he's passed. I 3 think he died. 4 Q I heard that, too. You 5 know, I don't -- 6 A I don't know. 7 Q I heard people say that, but 8 I don't know if it's actually true. 9 A I don't know either, but we 10 were friends at one point in time. 11 Really -- I used to drive him -- I used 12 to drive him home at night. He used to 13 ask me for a ride home. We used to be 14 really close. I went over to his 15 apartment. 16 This hurts me more than 17 anything, this affidavit. We were 18 really, really close me and him. 19 Q So then if you were so 20 close, why do you think he wrote this 21 statement? 22 A I don't know what happened. 23 I don't know. I know that he tells me 24 Mr. Capogrosso walked, and he's being 25 truthful here, and said excuse me. I</p>	<p style="text-align: right;">Page 269</p> <p>1 M.H. Capogrosso 2 the Brooklyn TVB because I'm asking an 3 attorney back in December of 2011 excuse 4 me, can I get my coffee. I have to be 5 expelled and take an anger management 6 course because this lawyer couldn't just 7 move to the side and let me get my 8 coffee. He had to call me -- tell me I'm 9 a Jew hater, fuck you I'm a Jew hater and 10 I'm the cause of this now. 11 But go ahead, I'm listening. 12 Q Mr. Tahir writes "Mr. Brody 13 said you have enough room. Why are you 14 so rude. Mr. Capogrosso got so upset 15 that he started shouting against Jews. 16 Mr. Beer who was also sitting in the room 17 asked Mr. Capogrosso that it's enough, 18 that you -- it's enough, you can't curse 19 Jews." Is that correct? 20 A Beer was in the room. Beer 21 was in the room, that I remember. I 22 remember -- said you had enough room -- I 23 didn't have enough room. I said excuse 24 me, can I get my coffee. He refused to 25 move the first time and then he -- then</p>

<p style="text-align: right;">Page 270</p> <p>1 M.H. Capogrosso 2 he's telling me excuse yourself, go fuck 3 yourself. 4 Then I come back, Beer is 5 there. I remember Beer. I'm not sure if 6 Sadiq was there and -- Sadiq must have 7 obviously been there because he does say 8 the words excuse me. 9 And he refused to be -- 10 he -- then he said it again to me, excuse 11 yourself, go fuck yourself. At that time 12 I got upset. At that point I got upset. 13 He walked -- at that point I got upset. 14 Yes, I did, I'm not going to deny it. I 15 took an anger management course. 16 Q So he writes that 17 "Mr. Capogrosso said you can call me a 18 fucking Italian Gini. Mr. Brody said 19 that you're an anti-Semite and you don't 20 belong in this place. Mr. Brody shouted 21 stop it and in the meantime Ms. Daniel," 22 I guess that means Danielle, "Calvo came 23 into the room and tried to cool down the 24 situation." Is this correct? 25 A I know Beer was in the room.</p>	<p style="text-align: right;">Page 272</p> <p>1 M.H. Capogrosso 2 was. 3 I do recall Beer being in 4 the room, that's what I remember. I 5 don't remember Calvo coming out, but 6 maybe she did. I know Maher was not in 7 the room, that I remember. 8 Q So Mr. Tahir writes "A 9 little later Mr. Meyers came in the room 10 and" -- I can't actually quite read what 11 he says. 12 A I have to apologize -- 13 Meyers is asking me to apologize to 14 Brody. Meyers is asking me to apologize 15 to a guy that just told me to go fuck 16 myself twice. That's what I have to do. 17 Q And what happened then? 18 A I got -- I got upset. I got 19 to apologize to a guy that just told me 20 to go fuck myself twice? Are you kidding 21 me? I mean are you really kidding me? 22 That's when I threw the punch at the 23 wall. I didn't hit the wall. I wasn't 24 charged. I wasn't arrested. That's when 25 I really got -- he's asking me to</p>
<p style="text-align: right;">Page 271</p> <p>1 M.H. Capogrosso 2 I don't remember what he was saying. I 3 was upset at that point in time. Listen, 4 I was upset. You know, I don't recall 5 exactly what I said. 6 Did Calvo come out? Calvo, 7 if she came out she took everybody's 8 affidavit, every lawyers' affidavit but 9 mine. She took every lawyers' affidavit 10 but mine as to what happened. 11 Beer I do remember in the 12 room and that's it. That's all I 13 remember. That's what I remember. 14 Q So is there anyone -- you 15 know, of what we've looked at so far, is 16 there anything that Mr. Tahir has written 17 that is untrue? 18 A Well, I don't know. I don't 19 know. I'm not going to say that because 20 I'll admit to the fact I said -- that I 21 said excuse me, that's what I'll admit 22 to. I don't know about the rest. I 23 don't recall the rest. I do remember 24 saying excuse me twice. I do -- I do 25 recall -- I do recall being upset. I</p>	<p style="text-align: right;">Page 273</p> <p>1 M.H. Capogrosso 2 apologize to a guy that just told me to 3 go fuck myself twice. 4 At that point Brody is 5 standing outside the -- outside the room. 6 He looks in and then he goes -- goes to 7 Judge Gelbstein. I think that's what 8 happened. I'm not sure. 9 Q So Mr. Tahir writes that you 10 said to Mr. Meyers that I'll send you to 11 the hospital. 12 A I never said that. I never 13 would say that. There's no reason for me 14 having -- being mad at Meyers. No reason 15 for me. Meyers didn't do anything. 16 Meyers just walked in the room. He's 17 asking me to apologize which is just 18 terrible because you know the truth 19 doesn't matter here. You know, the truth 20 doesn't matter as to what actually 21 happened. He's asking me to apologize to 22 a guy that just told me to go fuck myself 23 twice. 24 I never said I was going to 25 put Meyers in the hospital, never. I</p>

<p style="text-align: right;">Page 274</p> <p>1 M.H. Capogrosso 2 have no beef with Jeff Meyers. I mean we 3 weren't actually friends, but we did -- 4 he was a funny guy, Jeff Meyers. He's a 5 funny guy to talk to, real funny guy. He 6 makes you laugh.</p> <p>7 Q So -- 8 A He's a nice -- 9 Q So is -- 10 A He's a funny guy. 11 Q So is Mr. -- 12 A And I've been over to his 13 apartment. I mean we weren't friends. 14 We weren't close, but I was to his 15 apartment once. I did drive him home 16 several times after work because he 17 had -- his car was in the repair shop. I 18 did drive the man home.</p> <p>19 But were we close, no, but 20 he was a funny guy to talk to.</p> <p>21 Q So is Mr. Tahir lying here? 22 A What portion? Exactly what 23 portion?</p> <p>24 Q When he says that you 25 threatened to put Mr. Meyers in the</p>	<p style="text-align: right;">Page 276</p> <p>1 M.H. Capogrosso 2 don't remember saying I would put 3 Meyers -- there's no reason to have a 4 beef with Meyers, none. Brody, yeah. I 5 have no reason to have an argument with 6 Meyers.</p> <p>7 Over asking excuse me, at 8 Christmas time, can I please get my 9 coffee, this had to escalate to this.</p> <p>10 Q Did Mr. Tahir want you gone 11 from the TVB?</p> <p>12 A I don't know. I mean we 13 were friends at one point, but, you know, 14 I -- you know, I was making money down 15 there and, you know, this is a very 16 competitive business and you lose friends 17 over money. When everybody is, you know, 18 is chasing the same nickel, you lose 19 friends. There's only so many tickets 20 and only so much money to be made, you 21 know. And after a while if people aren't 22 making enough money and they see other 23 people making money, they get jealous and 24 attorneys, that it's, that's the game 25 down there.</p>
<p style="text-align: right;">Page 275</p> <p>1 M.H. Capogrosso 2 hospital?</p> <p>3 A Absolutely. I wouldn't 4 threaten. I don't believe in 5 threatening. If you're going to do 6 something, just do it. I don't threaten. 7 I would never threaten anybody like that. 8 First of all, I could get arrested for 9 that and you don't threaten.</p> <p>10 I mean if I have to defend 11 myself in this instance I would just do 12 it, but I'm not going to threaten you 13 with that. I don't threaten. I don't 14 believe in that. If you have to defend 15 yourself, you defend yourself, but you 16 don't threaten.</p> <p>17 Q So why would Mr. Tahir lie? 18 A I don't know. I don't know 19 if that's a lie. I don't remember -- I 20 don't remember saying that, absolutely 21 not. I don't know why he lied. Ask the 22 man.</p> <p>23 Q Well, I can't. I think he 24 passed away.</p> <p>25 A Yeah. I think he did. I</p>	<p style="text-align: right;">Page 277</p> <p>1 M.H. Capogrosso 2 You know, people come down 3 with cash in their hands, paying you 200, 4 150, 100, \$50 on a ticket. And they see 5 those transactions, people get jealous. 6 So do other attorneys want other 7 attorneys out, absolutely. It's a very 8 competitive business, it was all cash and 9 there's only so many tickets out there.</p> <p>10 So maybe he wanted me out. 11 Maybe he wasn't making enough. I don't 12 know.</p> <p>13 Q And he -- 14 A I'm listening. 15 Q Lastly Mr. Tahir writes 16 "Mr. Capogrosso went out of the room and 17 started hitting the wall and steel 18 guards." Is that true?</p> <p>19 A No. I don't recall doing 20 that. I do not recall doing that. I 21 remember I threw a punch at a wall in the 22 lawyers' room because the man just told 23 me to go fuck myself, but, no, I didn't. 24 I don't remember hitting a wall in the 25 DMV, I do not.</p>

<p style="text-align: right;">Page 278</p> <p>1 M.H. Capogrosso 2 First of all, if I hit a 3 steel guard I would have broke my hand. 4 Q So is it your testimony that 5 you did not hit a wall that day, December 6 21, 2011? 7 A I don't recall, no. 8 Q Did you ever hit a wall or a 9 steel guard at the DMV? 10 A No. Now, if I -- no, no. I 11 was never accused of it by Judge 12 Gelbstein. Judge Gelbstein never told 13 me. If you tell me once, it would never 14 happen twice. You only have to tell me 15 once. You don't have to tell me twice. 16 If I did something wrong, you tell me 17 once, you never have to tell me twice. 18 Q So you never punched a wall 19 or any other object -- 20 A Not that I recall. 21 Q -- at DMV? 22 A No. 23 Q Okay. 24 A Not that I recall, no. Like 25 I said, if it happened, you tell me once,</p>	<p style="text-align: right;">Page 280</p> <p>1 M.H. Capogrosso 2 MR. THOMPSON: So, 3 Ms. MacDonald, can I -- 4 A I never got a chance. 5 Q I'm sorry. I missed what 6 you said there, Mr. Capogrosso. 7 A I never got a chance to 8 write my affidavit as to what happened, 9 never got a chance and I was the one 10 there. 11 MR. THOMPSON: Ms. 12 MacDonald, let's mark this as Exhibit 13 11. 14 (The above-referred-to 15 statement was marked as Exhibit 11 16 for identification as of this date.) 17 Q And so here again Mr. Meyers 18 writes that he overheard a loud commotion 19 which he was told resulted in a tirade of 20 anti-Semitic slurs and that he later 21 implored Mr. Capogrosso to apologize. 22 Did he, in fact, ask you to 23 apologize? 24 A Yes, he did. 25 Q He writes that your "conduct</p>
<p style="text-align: right;">Page 279</p> <p>1 M.H. Capogrosso 2 it never happens twice. 3 Q So let's move on to a new 4 document. 5 A I do not recall. 6 Q I'm sorry, Mr. Capogrosso, I 7 didn't quite catch that. 8 A I said no, I do not recall. 9 Q Mr. Capogrosso, can you see 10 this document? 11 A Yeah. Jeff Meyers. I used 12 to drive him home every afternoon. 13 Q And this is a document from 14 your production Bates numbered P-248; 15 correct? 16 A Yeah. 17 Q And do you recognize this 18 document? 19 A Yeah. It's Jeff. Jeff's a 20 funny guy. 21 Q And what is this document? 22 A It's his affidavit. Like I 23 said, everybody got a chance to write an 24 affidavit but me as to what happened, 25 everybody.</p>	<p style="text-align: right;">Page 281</p> <p>1 M.H. Capogrosso 2 the rest of the day was one of abrasive 3 incoherent loud mutterings in which he 4 smashed his fist against concrete walls 5 and steel beams that are situated outside 6 the DMV hearing rooms, coupled with more 7 anti-Semitic comments. He kept saying 8 everyone here wants to fight me." 9 Does that refresh your 10 recollection at all? 11 A Yeah. That didn't happen. 12 It didn't refresh me because I never said 13 that. I was upset and I was mad. I 14 didn't hit any concrete walls or steel 15 beams. I don't recall making that 16 statement, no, I do not. 17 Was I upset, absolutely I 18 was upset. I just got blindsided by this 19 guy Yaakov Brody telling me to go fuck 20 myself twice, that I'm a Jew hater. For 21 what reason? Anti-Semite, for what 22 reason? 23 Q So Mr. Meyers is lying here; 24 correct? 25 A I never smashed my hand</p>

<p style="text-align: right;">Page 282</p> <p>1 M.H. Capogrosso 2 against the wall, no. I think I would 3 have broke -- broke my hand if I hit it 4 or hit anything. A steel column or a 5 brick wall, I would have broke my hand 6 so, yes.</p> <p>7 Q And why would Mr. Meyers 8 want to lie?</p> <p>9 A I don't know. I never said 10 it. Maybe he's a -- I don't know why. 11 You ask him. Ask him.</p> <p>12 Q Did --</p> <p>13 A I know what I said. I was 14 very upset. But did I hit a brick 15 concrete wall, no.</p> <p>16 Q Did Mr. Meyers want you 17 gone?</p> <p>18 A I don't know. Ask Meyers. 19 We were all very competitive, believe me. 20 This was a competitive environment. It's 21 an all cash environment. Money gets 22 transferred -- transferred on the floor 23 all day between lawyers and motorists. 24 There's only so many motorists coming in. 25 If I'm not there, Meyers</p>	<p style="text-align: right;">Page 284</p> <p>1 M.H. Capogrosso 2 Q Mr. Meyers -- 3 A I did not come anywhere 4 close to Jeff Meyers. If I did, I would 5 have been charged or arrested. 6 Q Mr. Meyers writes that you 7 said, quote, "I could put you in the 8 hospital with one just punch" -- "with 9 just one punch." Is that true, did you 10 say that?</p> <p>11 A Well, did I say it? No, no. 12 Now do I have that ability, absolutely. 13 Do I have the ability, yes. Did I say 14 it, no. I don't threaten people. Do I 15 have that ability, yes. I've been 16 training in martial arts my whole life. 17 I've been in and out of boxing rings my 18 whole life. Can I -- do I have the 19 ability, yes. Did I say it, no. I don't 20 threaten.</p> <p>21 Now, did he feel intimidated 22 by me, did he feel that, yeah, maybe he 23 did, I don't know. But did I say that --</p> <p>24 Q Which martial arts -- I'm 25 sorry. I didn't mean to cut you off.</p>
<p style="text-align: right;">Page 283</p> <p>1 M.H. Capogrosso 2 makes more money. If Meyers is not 3 there, I make more money. That's just 4 how the game is played.</p> <p>5 Q Later he writes that he was 6 sitting in the lawyers room across from 7 you, not engaging in any conversation 8 with him when he, Mr. Capogrosso, quote, 9 "suddenly became enraged and lunged at me 10 with his fists with great speed and 11 smacked his fists against his other hand 12 in a martial arts form coming within 13 12 inches of my face." Is that true?</p> <p>14 A No. I threw a punch at a 15 wall.</p> <p>16 Q What happened?</p> <p>17 A I told you several times, I 18 threw a punch at a wall in the vicinity 19 of no one. I didn't hit the wall, I 20 wasn't charged with it and I was not 21 arrested. I was mad, I'm sorry, I was.</p> <p>22 Throwing a punch in the air, 23 not in the vicinity of anyone I don't 24 think is any -- I wasn't charged and I 25 wasn't arrested. I'm sorry, I did not.</p>	<p style="text-align: right;">Page 285</p> <p>1 M.H. Capogrosso 2 Did you have anything more 3 you wanted to say there?</p> <p>4 A No.</p> <p>5 Q Which martial art do you 6 train in?</p> <p>7 A Kempo, K-E-M-P-O.</p> <p>8 Q And you have a black belt in 9 it; is that true?</p> <p>10 A Yes. A very high level 11 black belt.</p> <p>12 Q What level?</p> <p>13 A I'm a high level black belt.</p> <p>14 Q But can you tell me what 15 level?</p> <p>16 A I don't recall. I'm a high 17 level black belt.</p> <p>18 Q You don't recall what level 19 of black belt you are?</p> <p>20 A At a certain point, you 21 forgot.</p> <p>22 Q Do you have an estimate?</p> <p>23 A No. I'm a high level black 24 belt. I've been training a long time.</p> <p>25 Q Do you have any training in</p>

<p style="text-align: right;">Page 286</p> <p>1 M.H. Capogrosso 2 other martial arts?</p> <p>3 A Before Kempo I trained in 4 Mas Oyama and then in a boxing ring 5 and -- which I still was going to up to a 6 couple of years ago, which I had to stop, 7 but that's it.</p> <p>8 Q So Mr. Meyers writes "He 9 kept repeating the phrase you people, you 10 people. He later told me he envisioned 11 all of us Jews and didn't mean to single 12 me out during his assault on me." Is 13 this true?</p> <p>14 A You people? Now you're not 15 allowed to say you people. Isn't freedom 16 of expression? I don't recall saying 17 that. I mean he's offended because I say 18 you people? What's wrong with saying you 19 people? What is wrong with saying you 20 people? Maybe I was referring to lawyers 21 in general down there.</p> <p>22 I've had lawyer after lawyer 23 make affidavit against me. Now I'm 24 making an anti-Semitic remark by saying 25 you people? Maybe he's a little</p>	<p style="text-align: right;">Page 288</p> <p>1 M.H. Capogrosso 2 your colleagues, your fellow attorneys --</p> <p>3 A They're not my colleagues. 4 They're not my colleagues. Don't use 5 that word with me. They are not my 6 colleagues.</p> <p>7 Q Why are they not your 8 colleagues?</p> <p>9 A Because they don't -- they 10 don't write false defamatory statements 11 against somebody and give them no 12 opportunity to respond. They don't say 13 excuse me, go fuck yourself you Jew 14 hater. That's not a colleague. That's 15 not a colleague or -- I could go into 16 millions of things.</p> <p>17 They're not colleagues. 18 They were attorneys I worked with down in 19 the Brooklyn TVB. I had to work 20 alongside. I didn't work with them. 21 They were there working. I was there 22 working. I was not their colleague. We 23 did not work together. We worked 24 separately and independently.</p> <p>25 Q All right. Four of your</p>
<p style="text-align: right;">Page 287</p> <p>1 M.H. Capogrosso 2 oversensitive. I never used the word -- 3 I said you people, so what. I don't 4 recall saying it, but maybe I was talking 5 about the lawyers down there.</p> <p>6 Q So Mr. Meyers writes "He 7 later told me that he envisioned all of 8 us Jews and didn't mean to single me out 9 during his assault on me." Did you say 10 that?</p> <p>11 A I envisioned all of us and 12 didn't mean to -- all of us, did I say 13 the word Jew? I said all of us. Maybe 14 all your lawyers who don't want me. All 15 you lawyers, maybe that's what I said.</p> <p>16 Did I use the word Jew, no. 17 He has the Jew in parenthesis. Go to all 18 the --</p> <p>19 Q Okay.</p> <p>20 A Go to all the complaints 21 against me from a client or a motorist, 22 is there any Jewish person that states I 23 made an anti-Semitic remark, no. I mean 24 come on.</p> <p>25 Q So, Mr. Capogrosso, four of</p>	<p style="text-align: right;">Page 289</p> <p>1 M.H. Capogrosso 2 fellow attorneys at the Brooklyn TVB --</p> <p>3 A Yes.</p> <p>4 Q -- and they all remember the 5 incident the same way. Is that a 6 coincidence?</p> <p>7 A I don't know. You ask them. 8 I don't think they remembered it all the 9 same day. There are discrepancies here, 10 many discrepancies. I pointed them out 11 to you. One -- one affidavit says I'm 12 attempting to sit down. I wasn't 13 attempting to sit down.</p> <p>14 Q So if everything that is in 15 these affidavits were true and I know you 16 don't think it is, but if it were and you 17 had, in fact, said these things, thrown a 18 cup of coffee at Mr. Brody --</p> <p>19 A Well, that's not true. I 20 threw a cup of coffee in the garbage can. 21 Get the facts straight.</p> <p>22 Q I understand that you -- I 23 understand that you don't agree with the 24 facts, but I'm asking for the 25 hypothetical if these facts were true,</p>

<p style="text-align: right;">Page 290</p> <p>1 M.H. Capogrosso 2 would they justify excluding you from the 3 TVB?</p> <p>4 A They're not true. They're 5 not true, so there's no reason to exclude 6 me. They're not true. I told you what 7 happened that day. I was blindsided by 8 Brody. I have a right to get mad. Told 9 me to go excuse myself and go fuck myself 10 twice. I have a right to get mad. It's 11 a normal --</p> <p>12 Q I understand that you 13 disagree with the fact --</p> <p>14 A I was blindsided and that's 15 all that happened that day, that's it.</p> <p>16 Now, this is a competitive 17 business, I told you that. These lawyers 18 wanted me out. I was making money and 19 every dollar I make is a dollar that they 20 don't make. So the more attorneys they 21 can get out of there, the better it is.</p> <p>22 Q Let me rephrase the 23 question. If someone, not you, had used 24 the phrase fucking Jew cunt, thrown a cup 25 of coffee at somebody and tried to punch,</p>	<p style="text-align: right;">Page 292</p> <p>1 M.H. Capogrosso 2 my affidavit as to what happened and he 3 didn't do it, he didn't. If I'm punching 4 a wall or a steel beam, let Gelbstein 5 pull the videotape and he didn't do it.</p> <p>6 Q So let's move on to another 7 exhibit here.</p> <p>8 A And I don't like 9 hypotheticals that don't exist because 10 the facts that you're presenting aren't 11 true. I threw a cup, an empty cup in a 12 coffee -- in a garage can that Brody was 13 sitting next to. I didn't throw a punch 14 in the vicinity of any attorney. I 15 didn't hit any steel beams.</p> <p>16 If you had the opportunity 17 to look at the videotape, the judge would 18 have saw that and he didn't do it and he 19 had an opportunity to do it.</p> <p>20 Q So, Mr. Capogrosso, can you 21 see the document that I just put up?</p> <p>22 A Yes.</p> <p>23 Q And this document is Bates 24 stamped DMV-0000224; correct?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 291</p> <p>1 M.H. Capogrosso 2 you know, the air in front of somebody 3 else's face and told them that they'd put 4 them in the hospital, would that person 5 be someone who could be excluded from the 6 TVB?</p> <p>7 A No. I don't know. It 8 didn't happen. I don't know. First of 9 all, it didn't happen. I didn't throw 10 a -- I told you the facts, so I'm not 11 going to -- I'm not going to discuss a 12 hypothetical, what could have or could 13 not happen. Nobody wants to take my 14 affidavit as to what happened here, 15 nobody.</p> <p>16 Q Okay. Let's --</p> <p>17 A Everybody, you know, 18 everybody here could have looked at the 19 videotape if I'm punching a wall or 20 punching a steel beam. Judge Gelbstein 21 had the ability to pull the videotape and 22 look at the videotape as to what happened 23 and what happened that day and he didn't 24 do it.</p> <p>25 He had the ability to take</p>	<p style="text-align: right;">Page 293</p> <p>1 M.H. Capogrosso 2 Q Do you recognize this 3 document?</p> <p>4 A Bushra Vahdat's affidavit.</p> <p>5 MR. THOMPSON: Ms. 6 MacDonald, can I ask you to mark this 7 as Exhibit 12?</p> <p>8 (The above-referred-to 9 statement was marked as Exhibit 12 10 for identification as of this date.)</p> <p>11 Q We'll just discuss this 12 document and then we'll take a bit of a 13 break because I know we are all a little 14 tired.</p> <p>15 A I'm not tired. I'm not 16 tired at all.</p> <p>17 Q So what is this document?</p> <p>18 A I think it's an affidavit 19 from Bushra Vahdat.</p> <p>20 Q And Ms. Vahdat writes that 21 when she was first appointed, the 22 clerical staff approached her and handed 23 her an affidavit signed by all of them 24 requesting help dealing with an attorney.</p> <p>25 Do you think she's talking</p>

<p style="text-align: right;">Page 294</p> <p>1 M.H. Capogrosso 2 about the petition that we looked at 3 earlier? 4 A Yeah. The petition that has 5 no facts attached to it, just a whole 6 bunch of signatures -- 7 Q And that -- 8 A -- which Bushra Vahdat never 9 presented to me so I could address the 10 issues and resolve them and tell me 11 exactly what I did so I could resolve it 12 and that's a judge. 13 Q So she says that, in fact, 14 she did talk with you and in the next 15 paragraph she says and I'll highlight 16 this -- 17 A What paragraph? Go ahead. 18 Go ahead. 19 Q "At that time I met with 20 Mr. Capogrosso in Senior ALJ Gelbstein's 21 office and we jointly had a conversation 22 with Mr. Capogrosso." 23 Do you remember that 24 conversation? 25 A No, no. She was there.</p>	<p style="text-align: right;">Page 296</p> <p>1 M.H. Capogrosso 2 sometime before that. Do you remember 3 having a conversation with Ms. Vahdat and 4 Mr. Gelbstein prior to the time you were 5 expelled in 2011? 6 A No, no. 7 Q Okay. 8 A The only time I remember 9 speaking to her was that time after this 10 event. 11 Q So she writes "We explained 12 to him that his behavior was not 13 professional and that if he did not stop 14 his foul language and his threats we 15 would have to take action and bar him 16 from the TVB building. At that point he 17 promised us that he would conduct himself 18 according to the rules of conduct for 19 attorneys." 20 Did that conversation ever 21 happen -- 22 A Well, what foul language? 23 Q -- do you recall? 24 A Tell me exactly what foul 25 language I used and what threats? Was it</p>
<p style="text-align: right;">Page 295</p> <p>1 M.H. Capogrosso 2 Gelbstein told me you're not welcome here 3 anymore after this incident on December 4 22, which I was given no opportunity to 5 respond to, none, none. 6 She was there the next day 7 with Gelbstein when I arrived. There was 8 a police officer in the room, that I 9 remember. Gelbstein is sitting down. 10 She's sitting next to him. Gelbstein 11 tells me you're not welcome here anymore. 12 I said don't I have an opportunity to 13 explain, I've been here since 2005. I 14 don't have an opportunity -- I've been 15 here since 2005 serving the Brooklyn 16 community. I don't get an opportunity to 17 explain what happened yesterday by way of 18 affidavit, 2005. 19 Gelbstein tells me -- 20 Q So I believe -- 21 A You have to let me finish. 22 You're not welcome here 23 anymore. You have to leave. 24 Q So I believe she's referring 25 to an earlier conversation that happened</p>	<p style="text-align: right;">Page 297</p> <p>1 M.H. Capogrosso 2 the incident of December 22? 3 Q Well, I -- 4 A I'd like to know. 5 Q Well, Mr. Capogrosso -- 6 A What foul language did I 7 use? 8 Q -- the question was do you 9 recall this conversation? 10 A I recall -- the only 11 conversation I remember with her was 12 after this event. 13 Q So this conversation that 14 I've -- that we've highlighted here, you 15 don't recall that ever happening; is that 16 correct? 17 A The only conversation I 18 recall with this woman was the 19 conversation I had with Gelbstein and her 20 in the office after this. 21 Q Okay. 22 A Now, if you go back to the 23 following paragraph, "He abused the 24 clerks and followed a clerk in his car," 25 which is a complete lie being made by a</p>

<p style="text-align: right;">Page 298</p> <p>1 M.H. Capogrosso 2 judge, I followed a clerk in a car. Look 3 at what George Hon wrote. If she's 4 taking about George Hon, that's a 5 complete lie. 6 Q So, Mr. Capogrosso, the 7 question is, it's just a narrow question, 8 yes or no, do you recall the highlighted 9 conversation in which you met with 10 Ms. Vahdat and -- 11 A No. I've answered -- 12 Q -- Mr. Capogrosso? 13 A I've answered that question. 14 I recall one conversation -- 15 Q Okay. 16 A -- with this woman. 17 Q All right. So she says that 18 you were warned that if there were 19 further incidents that you would be 20 expelled; is that true? 21 A I remember one conversation 22 with this woman with Gelbstein after the 23 event of December 22, that's it. 24 Q Were you -- had you ever 25 previously been warned that if there were</p>	<p style="text-align: right;">Page 300</p> <p>1 M.H. Capogrosso 2 Q Let me rephrase the question 3 and see if -- 4 A I'll say it again, I had one 5 conversation with this woman, that's it. 6 Q So did -- 7 A There's nothing in writing. 8 Q Mr. Capogrosso -- 9 A That's all I had. 10 Q -- let me see if I can 11 clarify the question for you. Did anyone 12 warn you prior to December 21, 2011 that 13 you could be banned from the TVB for 14 misbehavior? 15 A No. I received no 16 affidavits, no warnings, nothing to 17 respond to, nothing. I wish you had. I 18 wish you had given me these affidavits 19 and given me an opportunity to respond 20 and I would have responded, corrected it, 21 apologized for it if I did something 22 wrong. Tell me what I did and I would 23 have addressed it, but I was given no 24 opportunity. 25 Q So Ms. Vahdat writes "On</p>
<p style="text-align: right;">Page 299</p> <p>1 M.H. Capogrosso 2 any further incidents you would be 3 expelled? 4 A Tell me what incidents 5 you're talking about. Give me an 6 opportunity to respond. So no, I do not. 7 I don't know what incident she's talking 8 about. The one with Brody where he told 9 me to go fuck myself twice? 10 Q So Mr. Capogrosso -- 11 A What incident is she talking 12 about? 13 Q Mr. Capogrosso, I'm not 14 asking about an incident. I'm just 15 asking for a narrow question. Were you 16 warned that prior to December 21 that you 17 might be expelled from the TVB if there 18 were an incident? 19 A What -- I had one 20 conversation with this woman that I 21 recall on December 22 when Gelbstein told 22 me I had to leave because Brody 23 approached me in the lawyers' room. 24 Q Let me -- 25 A That's it.</p>	<p style="text-align: right;">Page 301</p> <p>1 M.H. Capogrosso 2 Wednesday, December 21, I received an 3 e-mail from Danielle Calvo. She was very 4 concerned that she had to go into the 5 attorney room and stop Mr. Capogrosso 6 from shouting religious obscenities. 7 Mr. Capogrosso had thrown a coffee cup at 8 another attorney, Mr. Brody, in the 9 attorney room and after Mr. Brody had 10 objected, Mr. Capogrosso started to 11 scream and shout obscenities at everyone 12 around him. A crowd had gathered and the 13 entire courthouse was disturbed." 14 And then she writes "An hour 15 later I received another e-mail from 16 Ms. Calvo stating that Mr. Capogrosso had 17 tried punching one of the other 18 attorneys, Mr. Mayer, but had stopped 19 about an inch away from his face. 20 Mr. Mayer was very upset and left the 21 area in fear." 22 Is that referring to the 23 same incidents that we've been talking 24 about in the previous four statements? 25 A Yes, but Danielle Calvo</p>

45 (Pages 298 - 301)

<p style="text-align: right;">Page 302</p> <p>1 M.H. Capogrosso 2 never gave the full story. She only 3 gives half the story. She doesn't give 4 my version of what happened that day. 5 Q So -- 6 A She only gives half a story, 7 Danielle Calvo, half a story. What 8 precipitated that event? First of all, I 9 didn't punch Jeff Meyers or throw a punch 10 in his vicinity. I did not, number one. 11 Number two -- you turned it 12 away. You turned away from it. She 13 doesn't say what Brody said to me that 14 day. Why is that left out? Why? Why is 15 Calvo not asking me what happened? Like 16 that all happened for no reason? 17 She doesn't understand that 18 Brody told me to go excuse myself, go 19 fuck myself twice. She doesn't put that 20 down. 21 Q So you'll see here at the 22 bottom of page 1 -- that's not a good 23 highlight. I can do a better highlight 24 than that. 25 A You know, this is not a --</p>	<p style="text-align: right;">Page 304</p> <p>1 M.H. Capogrosso 2 was mad and I was upset. I don't recall 3 what I said. 4 I did not go anywhere near 5 Meyers, nowhere near Meyers. I was given 6 no opportunity to respond. I threw an 7 empty coffee cup -- 8 Q Was she -- 9 A Let me finish. I threw an 10 empty coffee cup -- 11 Q Sure. 12 A -- not at Brody. I threw it 13 in a can, in a can that's in the lawyers' 14 room where I'm allowed to do that. I'm 15 allowed to throw an empty coffee cup in a 16 can in a lawyers' room. I'm allowed to. 17 She doesn't write down what 18 Brody said to me, that I'm a Jew hater 19 anti-Semite go fuck yourself twice. 20 My hands are bruised. I've 21 been going to martial arts all my entire 22 life. My hands are bruised. Sometimes I 23 get a black eye. It happens. I accept 24 the reality of that. It's not because I 25 hit a wall at the DMV. Because I go to a</p>
<p style="text-align: right;">Page 303</p> <p>1 M.H. Capogrosso 2 Q Ms. Vahdat writes that 3 "After taking everyone's statement 4 Mr. Gelbstein and I met with 5 Mr. Capogrosso. We asked him for his 6 version of the prior day's events and he 7 admitted to shouting the religious 8 obscenities and trying to punch, as he 9 put it, the air in front of Mr. Mayer's 10 face. He was not remorseful and claimed 11 that he needs to punch the walls in our 12 office to let out steam. I also observed 13 that his knuckles were severely bruised." 14 So what -- 15 A All right. What do you 16 want? What's the question? What's the 17 question? 18 Q My question is what do you 19 recall from this meeting? 20 A This meeting what I 21 recall -- first of all, Gelbstein told me 22 you're not welcome here. I was given no 23 opportunity to respond by way of written 24 affidavit as to what happened. I did not 25 shout religious obscenities. Again, I</p>	<p style="text-align: right;">Page 305</p> <p>1 M.H. Capogrosso 2 boxing gym and a martial arts gym that it 3 happens. That's when I -- 4 Q So, Mr. Capogrosso, she -- 5 you said you weren't able to put in your 6 version of events, but she writes that 7 she asked you for -- we asked him for his 8 version of the prior day's events and he 9 admitted shouting religious obscenities 10 and trying to punch at and that you were 11 not remorseful and claims that you needed 12 to punch the walls in the office. 13 So you were able to verbally 14 give your version of events; weren't you? 15 A No, I wasn't. First of all, 16 it's a lie. First of all, it's a lie. 17 And what she's stating here is -- you 18 have to move this over -- up a little 19 bit, down or up. 20 Q Sure. 21 A That I -- this is an 22 absolute lie from a judge that I needed 23 to punch a wall in the office to let off 24 steam. 25 I have to look at it. It's</p>

<p style="text-align: right;">Page 306</p> <p>1 M.H. Capogrosso 2 still being blocked. I can't see it. 3 Q You want to go further up? 4 What are you looking for? 5 A It's blocking it. Further 6 up. Further up. Further up. Whatever 7 this -- just further up. 8 Q There's nothing further up. 9 A Well then further down. 10 This is the second lie this 11 woman is stating, that if I don't punch a 12 wall to let off steam I'm going to hit 13 somebody. That he needs to punch the 14 walls in our facility, that's the most 15 ridiculous statement that a lawyer would 16 ever make to a judge. That's a lying 17 lawyer acting as an administrative law 18 judge. I don't know the worst criminal 19 in the world that's going to make that 20 statement. 21 Did I use an obscenity when 22 Brody told me to go fuck myself, I 23 probably did. I don't recall. Did I 24 throw a punch, I admitted to throw a 25 punch, not at Meyers, at a wall. I</p>	<p style="text-align: right;">Page 308</p> <p>1 M.H. Capogrosso 2 into an attorneys' room in the morning, 3 tell a lawyer to go fuck himself, that 4 he's a Jew hater, anti-Semite and that's 5 allowed, that's acceptable. 6 Q So, Mr. Capogrosso, let me 7 ask you, isn't this basically the same 8 thing that happened when you were 9 expelled from the TVB in 2015, there was 10 an incident with other -- with someone 11 else, you dispute the version of events, 12 there was an allegation of violence and 13 then you're escorted out after TVB 14 leadership is -- 15 A Well, tell me -- 16 Q -- called? 17 A Well, tell me what I did. 18 Well, tell me what exactly I did on 19 May 11. Tell me exactly what I did 20 wrong. Now you can accuse me and -- tell 21 me. I turned around and look at a 22 security guard. I'll tell you what 23 happened on May 11. He's grumbling and 24 mumbling, shaking his head, crosses over 25 two security barriers, gets within three</p>
<p style="text-align: right;">Page 307</p> <p>1 M.H. Capogrosso 2 didn't hit the wall, I wasn't charged and 3 I wasn't arrested. 4 All right. Are my hands 5 bruised, yes. I told you the reasons 6 why. 7 Q So -- 8 A But was I given an 9 opportunity to write a written affidavit, 10 no, never, as to what happened. 11 Q So, Mr. Capogrosso, I didn't 12 ask you about a written affidavit. I 13 asked you if you were able to verbally 14 say what your perspective was and it 15 sounds like you were; correct? 16 A No, I was not. Gelbstein 17 called me in the room. I was not. I'm 18 telling you these facts are not true. 19 Gelbstein called me in the room in the 20 presence of a police officer and -- and 21 told me you're not welcome here anymore. 22 That's what I remember. They accepted no 23 affidavit on my behalf as to what 24 happened, none. 25 So Brody's allowed to walk</p>	<p style="text-align: right;">Page 309</p> <p>1 M.H. Capogrosso 2 inches of my face, ducks his head and 3 obscures his hand and I put my hand up 4 and I say back up, back up. That's what 5 happened on May 11. 6 It has nothing to do with 7 this incident. This is a security guard 8 who stole money from a client looking for 9 me and I reported it and then started to 10 harass and was getting away with it 11 because Judge Gelbstein allowed his 12 harassment and I told you all the 13 harassment that was going on, giving me 14 the sign of the cross, a spear hand, 15 hitting me from behind. 16 I put my hand up, back up, 17 back up. It's absolutely not the same. 18 Q All right. 19 A I got blindsided again by 20 this -- that's it. Go ahead. 21 MR. THOMPSON: So why don't 22 we take a 15 minute break, come back 23 at around 2:45. Is that okay with 24 everybody? 25 THE WITNESS: I don't need a</p>

<p style="text-align: right;">Page 310</p> <p>1 M.H. Capogrosso 2 break, but if people need a break, 3 take a break. 4 MR. VIDEOGRAPHER: All 5 right. The time is 2:33. We are off 6 the record. 7 (A short recess was taken.) 8 MR. VIDEOGRAPHER: The time 9 is 2:48. We are on the record. 10 Q So, Mr. Capogrosso, I've put 11 up an exhibit here. Do you recognize 12 this document? 13 A Yes. 14 Q What is this document? 15 A Well, after the events with 16 Yaakov Brody in 2011, Gelbstein told me, 17 you know, you're not welcome here 18 anymore. I hired a lawyer, he 19 communicated with the DMV and the 20 Attorney General's office and he 21 represented me in an Article 78 22 proceeding. 23 Q Okay. And you see this 24 document is Bates stamped DMV-0000226; 25 correct?</p>	<p style="text-align: right;">Page 312</p> <p>1 M.H. Capogrosso 2 chance to get rid of him, referring to 3 Mr. Capogrosso." 4 Can you tell me what's meant 5 by this? 6 A I don't know what's meant. 7 That's what she said. That's what she 8 said. It's exactly what she said, now's 9 our opportunity to get rid of him. 10 Q So -- 11 A Her clerks didn't like me. 12 You saw the affidavits written by her 13 clerks with no facts supporting anything 14 I said or did and she stated that, now's 15 our chance to get rid of him and I took 16 the bait. I took the bait. 17 Q The Danielle mentioned here, 18 is that Danielle Calvo? 19 A Yes. 20 Q And so in your 21 interrogatories you mentioned an incident 22 when Ms. Calvo said now's our chance to 23 get rid of him. Is this the incident you 24 were referring to? 25 A Yeah, yes.</p>
<p style="text-align: right;">Page 311</p> <p>1 M.H. Capogrosso 2 A Yes. 3 Q And so this is a document 4 that was filed -- sent on your behalf by 5 your lawyer; correct? 6 A Yes, at that time, Chris 7 McDonough. 8 MR. THOMPSON: All right. 9 Can you mark this as Exhibit 13? 10 (The above-referred-to 11 letter was marked as Exhibit 13 for 12 identification as of this date.) 13 Q And is it safe to say that 14 this letter features your version of 15 events? 16 A Well, as I told them to my 17 lawyer. 18 Q And I want to go down to a 19 portion here at the bottom of the first 20 page, Mr. McDonough writes "One of the 21 managers of the center, Danielle, heard 22 the exchange, again Mr. Brody was yelling 23 at the cup" -- at the top of his lungs, 24 and came into the room. In front of 25 Mr. Capogrosso she stated now's our</p>	<p style="text-align: right;">Page 313</p> <p>1 M.H. Capogrosso 2 Q So let me ask you, when 3 we -- before the break when we were 4 talking about the incident with 5 Mr. Brody, why didn't you mention 6 Ms. Calvo coming in and saying that? 7 A When I said during the 8 incident with Mr. Brody? Because at -- 9 at that -- you know, today is 2020. I 10 talked to this lawyer when, 2011, 2012, 11 eight years ago and eight years ago I 12 remember her saying it. Today, 2020, I 13 remember exactly what Brody said, 14 exactly. 15 So do I remember what she 16 said in 2012, no, but do I remember what 17 I stated to this lawyer, that's what I 18 said. If that's what I said, yes. 19 Q So sitting here today, do 20 you contend that Ms. Calvo said these 21 words? 22 A Yes, I do. I said them in 23 2012, what was it, January, a month after 24 this happened, yes, absolutely. I said 25 that a month, one month after this</p>

<p style="text-align: right;">Page 314</p> <p>1 M.H. Capogrosso 2 happened. It is now 2020, eight years. 3 Q But sitting here today, you 4 don't remember the circumstances in which 5 she said that; is that correct? 6 A Listen, I remember what -- I 7 told you what happened that day. I said 8 excuse me, can I get my coffee. Was I 9 upset, yes. Was I -- was my voice loud, 10 yes. Did she come -- 11 Q And why would she -- 12 A Did she come in, she 13 probably did. Now that I'm looking at 14 this, yeah, she probably, she came in. I 15 said this -- 16 Q Why would she want to -- 17 A -- in 2012. I already told 18 you that. Didn't you have all these 19 affidavits you're showing me that her 20 clerks didn't like me, didn't you show me 21 all these affidavits? 22 For what reason I don't 23 know, other than the other attorneys were 24 giving them money for Christmas, cash for 25 Christmas, buying them breakfast in the</p>	<p style="text-align: right;">Page 316</p> <p>1 M.H. Capogrosso 2 Tanya Rabinovich to the District 3 Attorney's office and she was removed 4 after that complaint and I know maybe 5 they liked Tanya because she was doing 6 business at the Brooklyn TVB with the 7 clerks and maybe they were getting paid 8 by her, I don't know, but those are my 9 reasons. 10 Q So you'll see, 11 Mr. Capogrosso, I'm highlighting a 12 paragraph about halfway down page 2 where 13 your lawyer writes "Two weeks later 14 Mr. Capogrosso contacted Judge Vahdat," 15 Vahat it says, "and asked her to explain 16 her determination. She advised that if 17 Mr. Capogrosso was good and stayed quiet, 18 she'd reconsider her determination three 19 months later and at that time determine 20 if he could go back into other Department 21 of Motor Vehicle adjudication centers, 22 but not Brooklyn South." 23 Do you recall that 24 conversation? 25 A I might have called. I</p>
<p style="text-align: right;">Page 315</p> <p>1 M.H. Capogrosso 2 morning, talking, you know, schmoozing 3 with them for 20 minutes at the DMV. 4 Talking. 5 I was there to do a job, 6 that's it. I don't know why they didn't 7 like me, but the clerks didn't like me. 8 I understood. Maybe I wasn't giving her 9 money. Maybe the other attorneys were 10 paying her. There's been allegations in 11 the Brooklyn, in the TVB and I showed you 12 those allegations, clerks getting paid 13 often. 14 I know the other attorneys 15 there were giving these clerks money in 16 cash for Christmas and the holidays, I 17 know it. They were asking me how much 18 they should give them. I know that 19 because the other attorneys were asking 20 me and I said I don't give them anything. 21 I know other attorneys were 22 buying them meals in the morning and 23 buying them lunch. I didn't do it. I 24 know that for a fact. Maybe that's why. 25 I know I complained about</p>	<p style="text-align: right;">Page 317</p> <p>1 M.H. Capogrosso 2 don't know. I was calling everybody 3 after I got expelled. Everybody I was 4 making phone calls to. After this 5 incident where I was given -- 6 Q Did -- 7 A You have to let me finish. 8 Q Sure. 9 A After this incident I was 10 given no opportunity to file an affidavit 11 on my behalf and I was not allowed back 12 in the Brooklyn TVB and I had all these 13 clients whose money I was holding, 14 Brooklyn clients who I was not showing up 15 for cases on, that I was calling 16 everybody to try to get some explanation 17 of this. 18 And I probably got through 19 to her and if that's what she said, 20 that's what she said. But that I had to 21 work my way back in, what does that mean 22 work my way back in? I have to be good 23 and stay quiet? I don't understand what 24 that means. Are you suppressing my 25 freedom of expression? I'm not allowed</p>

<p style="text-align: right;">Page 318</p> <p>1 M.H. Capogrosso 2 to talk as a lawyer? What do I have to 3 do, stay quiet? 4 Q So -- 5 A I don't know what that 6 means -- 7 Q So do you -- 8 A -- stay quiet. 9 Q Mr. Capogrosso, sitting here 10 today, do you recall this conversation? 11 A If I said that to my 12 attorney in 2012, then that's a true 13 statement. It's a true statement. 14 Q Understood, Mr. Capogrosso, 15 but the question was sitting here today, 16 do you recall this conversation with 17 Ms. Vahdat? 18 A Today do I remember it? Let 19 me think. I did try to make a lot of 20 phone calls. I did make phone calls 21 right after this happened. Do I recall 22 making this exact conversation, I don't 23 remember. I don't remember saying that 24 exact conversation, but I remember if I 25 said it to him at that time that that was</p>	<p style="text-align: right;">Page 320</p> <p>1 M.H. Capogrosso 2 told me or you agree to take an anger 3 management course. 4 Well, I had a lot of 5 clients. I had -- I forgot what that 6 letter said, but it was a lot of clients. 7 I had people calling me where are you, 8 where are you, where are you, why aren't 9 you showing up. I had clients calling me 10 left and right. I felt an obligation to 11 these clients because that's who I am. 12 If a guy gives me money to do a job, I 13 feel an obligation to do that job. I 14 feel a very strong obligation to do it 15 and to show up. I show up. 16 And I said all right, if I 17 have to wait a year in order for my case 18 to be heard and that was a bad decision. 19 I should have adjudicated this right at 20 the start because Chris McDonough told me 21 listen, if you go back down there, you 22 sneeze the wrong way, they're going to 23 throw you out. That's what he told me. 24 Chris told me that and he's a good 25 lawyer. He told me the truth. He said</p>
<p style="text-align: right;">Page 319</p> <p>1 M.H. Capogrosso 2 the truth. 3 Q Okay. 4 A I had a big client case at 5 that point. I had clients calling me, 6 asking me where are you, what's going on. 7 So was I trying to reach out to people, 8 yes, I was, absolutely. 9 MR. THOMPSON: So let's mark 10 this as Exhibit 13 if we haven't 11 already and I suspect you already 12 did. 13 Q And let's -- a couple of 14 other quick questions. So you filed an 15 Article 78 lawsuit; is that correct? 16 A My attorney did on my 17 behalf, Chris McDonough at that point. 18 Q And how did the lawsuit 19 proceed? 20 A We went down to court, went 21 before a judge, Judge Gelbstein was there 22 and I was given the opportunity to go to 23 a hearing a year from now, a year from 24 the date -- a year, one year the judge 25 said. We'll hear the case in a year she</p>	<p style="text-align: right;">Page 321</p> <p>1 M.H. Capogrosso 2 if you sneeze the wrong way, they're 3 going to throw you out again. I said 4 Chris, I got a ton of clients here and I 5 feel an obligation. 6 So I took the course rather 7 than wait a year to get a hearing on the 8 matter and I should have waited. I 9 should have waited it out and I should 10 have adjudicated this back then and I 11 didn't do it. 12 Q So what were the terms of 13 the agreement that resolved the case? 14 A I don't know. There were no 15 terms. I was told to take an anger 16 management course, that's it. I was told 17 to take an anger management course, 18 that's all I -- that's all Chris told me 19 to do. 20 Q Were you told that any 21 violent or aggressive behavior would 22 result in your removal from the TVB? 23 A I was given a letter, two 24 days before I was supposed to -- allowed 25 to go back in, a letter that was mailed</p>

<p style="text-align: right;">Page 322</p> <p>1 M.H. Capogrosso 2 to my attorney two days before I was to 3 go. I agreed to take an anger management 4 course, that's all I agreed to, that's 5 it. I signed no other stipulation. I 6 agreed to nothing.</p> <p>7 I know what the rules are 8 and how to act as a lawyer. I know that. 9 Q Did -- 10 A But I didn't sign nothing. 11 I agreed to take an anger management 12 course and that's what I did. That's 13 what I told the judge.</p> <p>14 Now, your office threw 15 something at me after the fact. After 16 this agreement that we reached your 17 office puts all these conditions, which I 18 adhered to anyway, but it was after the 19 fact, after I already agreed only to take 20 an anger management course.</p> <p>21 So go ahead.</p> <p>22 Q And what was the Attorney 23 General's office's role in that lawsuit? 24 A I assume they represented 25 the DMV.</p>	<p style="text-align: right;">Page 324</p> <p>1 M.H. Capogrosso 2 Q It's from Serwat Farooq. 3 A Fine. I didn't sign this, 4 but fine. That was something that -- 5 Q So do you recognize -- 6 A Yeah. I do recognize it. 7 It's a letter from -- 8 Q Do you recognize it? 9 A It's a letter from Chris 10 McDonough. Yeah, Chris is my lawyer. 11 Jackie was the lady that worked under 12 him. 13 I do remember -- I do 14 recognize this. This is a letter from -- 15 I don't know if I remember seeing this 16 letter. I don't remember. I don't know. 17 I know I had to take an anger management 18 course. That's all I remember. 19 I don't think I was ever 20 shown this letter. Did I -- 21 Q Did you -- 22 A What's the marking on this? 23 Q I'm not sure. This came 24 from our production. 25 A Then I don't -- I don't</p>
<p style="text-align: right;">Page 323</p> <p>1 M.H. Capogrosso 2 Q Just for the litigation or 3 for anything else? 4 A I don't know. Chris would 5 know that better than me, my attorney on 6 the Article 78. 7 Q I'm going to bring up an 8 exhibit and, Mr. Capogrosso, can you see 9 the exhibit here? 10 A Yes. 11 Q And this is marked in the 12 defendants' production DMV-0000205; 13 correct? 14 A Yeah. 15 Q And do you recognize this 16 document? 17 A No, I don't. I have 18 probably seen it, but I got to see the 19 whole thing. Can you scroll down? I've 20 seen this. 21 Q Sure. 22 A Can you scroll down, please? 23 Go ahead. Now can you go up, please? 24 This is from who, Assistant 25 Attorney General?</p>	<p style="text-align: right;">Page 325</p> <p>1 M.H. Capogrosso 2 remember seeing this. I remember seeing 3 that one letter that was -- that had the 4 second half of this down. I only saw 5 this second half on the letter that was 6 sent to me, please be advised -- 7 Q Okay. 8 A That's the portion I saw 9 where it says please be advised. That's 10 the letter I saw. I never saw this top 11 portion of it. I saw this second half 12 portion of it from please be advised down 13 and that portion of it was sent to me in 14 a letter with your letterhead on it 15 without these first four paragraphs -- 16 without these first three paragraphs and 17 it was sent to me two days before I was 18 to go back in. That's what I remember. 19 Q So you don't recognize this 20 letter here? 21 A I recognize the last two 22 paragraphs where it says please be 23 advised. That's what was sent to me. 24 That's what I recognize. 25 Q Okay.</p>

<p style="text-align: right;">Page 326</p> <p>1 M.H. Capogrosso 2 A I don't remember the top 3 portion of it. 4 MR. THOMPSON: Ms. 5 MacDonald, we are skipping around a 6 little bit on the exhibits as we get 7 later in the day. So this is Exhibit 8 16 in what we sent to Veritext, but 9 please mark it down as the next 10 exhibit, which I think is Exhibit 14, 11 is that right?</p> <p>12 MS. REPORTER: I have not 13 been keeping track because usually I 14 write the exhibits down. If you want 15 to just give me a minute.</p> <p>16 MR. THOMPSON: We can mark 17 this as Exhibit 16 and we'll just 18 have a couple of exhibits with a gap. 19 (The above-referred-to 20 letter was marked as Exhibit 16 for 21 identification as of this date.)</p> <p>22 A Like I said, I only remember 23 seeing the bottom half of that letter, 24 please be advised, that's what was sent 25 to me. That was sent to me two -- it was</p>	<p style="text-align: right;">Page 328</p> <p>1 M.H. Capogrosso 2 guys all sitting there, all looking 3 angry. I talked to a few of them. They 4 all had problems at work or with their 5 girlfriends or with their wives. 6 I got called into his 7 office. I sat down with him. He gave me 8 a book to read about I over E, 9 intelligence over emotion. He kept 10 telling me intelligence over emotion. I 11 went back there week after week. He kept 12 telling me intelligence over emotion, to 13 read a chapter in the book every week. I 14 did that. 15 He told me, you know, I felt 16 bad -- he told me he felt bad for me. He 17 told me I was wrongfully accused, he felt 18 bad for me and he said I completed the 19 course.</p> <p>20 Q Do you feel like you got 21 anything out of the course?</p> <p>22 A I over E, I'll always 23 remember I over E, intelligence over 24 emotion. I mean it's a little easier 25 said than done. You know, I'm an</p>
<p style="text-align: right;">Page 327</p> <p>1 M.H. Capogrosso 2 sent to me by your office two days before 3 I was to go back to work, two days. 4 Q So, Mr. Capogrosso, I'm 5 showing you another document. Do you 6 recognize this? 7 A Yes, John McCann. 8 Q And this is from your 9 production Bates stamped P-28; correct? 10 A Yes. 11 Q What document is this? 12 A That's from the anger 13 management doctor I had to go to, anger 14 management course. 15 MR. THOMPSON: And so can we 16 mark this down, Ms. MacDonald, as 17 Exhibit 17. 18 (The above-referred-to 19 report was marked as Exhibit 17 for 20 identification as of this date.) 21 Q So, Mr. Capogrosso, what did 22 the anger management course consist of? 23 A I showed up at this man's 24 office. It was in the basement of his 25 house. There was couches, about 10 to 12</p>	<p style="text-align: right;">Page 329</p> <p>1 M.H. Capogrosso 2 emotional guy. It's a little easier said 3 than done, you know. 4 I over E is what he kept 5 telling me, I over E, so I try to think 6 before I act he told me. I said well, 7 it's easier said than done. When a guy 8 tells you go excuse yourself, go fuck 9 yourself twice, you know, you get upset 10 and that I'm a Jew hater. For what 11 reason I'm a Jew hater, I don't know, 12 so -- 13 Q Sir, do you think -- 14 A Go ahead. 15 Q Do you think you benefited 16 from the course at all? 17 A Absolutely. I went -- I 18 went to the Philippines. I had some -- I 19 took a break, I went to the Philippines 20 and I came back and I went back to work. 21 Q And -- 22 A After I took the course I 23 went to the Philippines and I had some 24 fun and I came back. 25 Q And did taking the course</p>

<p style="text-align: right;">Page 330</p> <p>1 M.H. Capogrosso 2 help you get along with co-workers at the 3 TVB? 4 A Well, it made me more 5 suspicious of everybody. I hate to say 6 that, but it did. I was never a 7 suspicious person. You know, I pretty 8 much -- you know, but you have to be 9 suspicious of everything you say and 10 everything you do. You have to look at 11 every word. 12 I was never like that. I 13 was very, you know, outgoing and, you got 14 to be careful everything you say and 15 everything you do, who's taking it the 16 wrong way, who am I insulting, who's 17 fearful of my presence. 18 I mean, you know, so then I 19 got fearful of everything I said or do. 20 Every time I walk into a courthouse I got 21 to look around like I'm in church, but it 22 is what it is. A clerk, if I look at a 23 clerk, I'm smirking at clerk. What the 24 hell is smirking at a clerk? 25 So now I'm fearful of</p>	<p style="text-align: right;">Page 332</p> <p>1 M.H. Capogrosso 2 document? 3 A That I took the anger 4 management course, which I did. I'll be 5 allowed to come back June 27. It's seven 6 days, I said two days, it's seven days 7 before I was -- that I get this document. 8 On June 20 I get this document, seven 9 days before I was supposed to go back in. 10 Q And -- 11 A I already agreed just to 12 take an anger management course. You 13 want to throw all these other conditions, 14 that's fine because I adhered to all of 15 them, I did adhere to all of them, but I 16 said I'm going to -- I'm not going to 17 dispute it at this point because I'll -- 18 you know, I'm not because I'm going back 19 to work in seven days, but I adhered to 20 all of it anyway. 21 But did I sign off on this 22 document, I never signed off to this 23 document. 24 Q And just for the record, 25 Mr. Capogrosso, this document was marked</p>
<p style="text-align: right;">Page 331</p> <p>1 M.H. Capogrosso 2 everything I do when I walk in a 3 courtroom, absolutely. You got to watch 4 every word you say. It's like you're 5 walking into church in the morning and 6 that's the way I act now when I go into a 7 courtroom. I don't talk to anybody. I 8 just do my business and that's it. I'm 9 very circumspect. I listen to every word 10 I say and I make sure it's not construed 11 in the wrong way, that's it. 12 Q All right. Let's close out 13 of this and I'm going to bring up another 14 document here. 15 MR. THOMPSON: And, 16 Ms. MacDonald, in case I didn't say 17 it already, let's have that previous 18 document marked Exhibit 16 (sic). 19 Q Mr. Capogrosso, do you 20 recognize this document? 21 A This is the document I 22 reviewed, this document that was sent to 23 me. This document was sent to me. 24 That's the document. 25 Q Okay. So what is this</p>	<p style="text-align: right;">Page 333</p> <p>1 M.H. Capogrosso 2 P-143 in your production; correct? 3 A Yes. 4 MR. THOMPSON: And, 5 Ms. MacDonald, let me ask you to 6 please mark this as Exhibit 19. 7 (The above-referred-to 8 letter was marked as Exhibit 19 for 9 identification as of this date.) 10 Q So, Mr. Capogrosso, I'll -- 11 you said that this is not something you 12 agreed to; correct? 13 A I didn't sign it, the 14 written stipulation. It was thrown at 15 me, thrown at me, mailed to me on June 16 20, 2012. I think I received it -- maybe 17 it was dated -- I think I only received 18 it two days before I was to go back in, 19 two days and it's the first time I saw 20 it. I agreed to take an anger management 21 course, which is what I did. 22 I never saw this document, 23 no, until two days before I could go 24 back. Now, did I adhere to everything, 25 yes. Did I see it, no.</p>

<p style="text-align: right;">Page 334</p> <p>1 M.H. Capogrosso 2 Q So, Mr. Capogrosso, you see 3 where it says "Please be advised that if 4 and when Mr. Capogrosso appears at a TVB 5 office, he must strictly adhere to the 6 standards of conduct required of 7 attorneys appearing before State courts? 8 Threatening conduct by Mr. Capogrosso, 9 verbal threats of physical violence and 10 verbal abuse, including the use of ethnic 11 slurs, will not be tolerated." Do you 12 see that? 13 A Yes. 14 Q And you read that prior to 15 going back; correct? 16 A And I adhered to all of it, 17 all of it. 18 Q And you see the passage that 19 says "DMV reserves all rights to respond 20 to future misconduct including, if 21 warranted, by immediately and permanently 22 barring Mr. Capogrosso from appearing on 23 behalf of DMV licensees at TVB offices;" 24 correct? 25 A Well, you can say whatever</p>	<p style="text-align: right;">Page 336</p> <p>1 M.H. Capogrosso 2 up front and maybe I would have -- 3 Q Mr. Capogrosso, I'll 4 represent to you that these conditions 5 were included in the letter to your 6 lawyer that we previously discussed at 7 Exhibit 16. 8 A The only time I saw that, 9 that was on -- that letter is dated June 10 20. That letter is dated June 20 and 11 that's the letter I received. 12 Q And I'll represent to you 13 that the previous letter was dated May 14 15, 2012, which was sent to your lawyer. 15 A The letter I received was 16 dated June 20. I was told to take an 17 anger management course. Now, I adhered 18 to all those conditions, but I agreed to 19 take an anger management course, that's 20 it. 21 Q So hold on one second while 22 I bring up another document. 23 Mr. Capogrosso, can you see 24 this document? 25 A Yeah. I think I remember</p>
<p style="text-align: right;">Page 335</p> <p>1 M.H. Capogrosso 2 you like. You can say whatever you like. 3 Did I sign off on that statement, no. 4 No, I did not sign. 5 Q Did you sign off on -- 6 A I signed off on going to -- 7 Q Did you sign off -- 8 A I signed off on going to 9 anger management, that it's. I agreed to 10 take an anger management course, that's 11 it, not all these conditions. I agreed 12 to take an anger management course, 13 that's all I agreed to do. 14 You threw this at me. Your 15 office threw this at me. I received this 16 two days before I was to go back. 17 After -- 18 Q Mr. Capogrosso -- 19 A Let me finish. After the 20 expense of \$10,000 and an anger 21 management course. It cost me 10 grand. 22 After that expense, you throw this at me 23 two days before. 24 If you were going to put all 25 these conditions, you should have told me</p>	<p style="text-align: right;">Page 337</p> <p>1 M.H. Capogrosso 2 seeing that, yes. 3 Q And what is this? 4 A Stipulation of 5 Discontinuance. 6 Q And is this the document 7 that ended the Article 78? 8 A I believe so, yeah. I mean 9 I hate to say the word I believe. Let me 10 look at it. 11 Yeah, that's Jackie's 12 signature, yes. 13 Q And so do you see anywhere 14 on here where there's an anger management 15 requirement? 16 A No. 17 Q I don't either. 18 A No. 19 Q So was anger management part 20 of the deal to have you come back to the 21 TVB? 22 A The only deal I agreed to. 23 I was -- the judge told me the day I went 24 to court initially on this Article 78, 25 the judge told me two things and he said</p>

<p style="text-align: right;">Page 338</p> <p>1 M.H. Capogrosso 2 either -- she told me. She told me I'll 3 give you a date a year from now to argue 4 this case or go take an anger management 5 course. I told the judge I'll take an 6 anger management course because I threw a 7 punch at a wall and to me -- well, 8 that's -- I said let me take the anger 9 because that's -- I said let me take the 10 anger management course. I had a lot of 11 clients calling me left and right, I had 12 to get back to court and deal with this. 13 I took an anger management 14 course. That's what I agreed. 15 MR. THOMPSON: And, 16 Ms. MacDonald, let's please mark this 17 Stipulation of Discontinuance as 18 Exhibit 18. 19 (The above-referred-to 20 stipulation of discontinuance was 21 marked as Exhibit 18 for 22 identification as of this date.) 23 Q And now, Mr. Capogrosso, you 24 see how we are back at Exhibit 19? 25 A Yes.</p>	<p style="text-align: right;">Page 340</p> <p>1 M.H. Capogrosso 2 I agreed to. 3 Now, did I -- did I not 4 reserve my right to question any removal? 5 I never, never disavowed my right to 6 question my removal, never, never. I 7 would never have signed off on that, that 8 I didn't have a right to respond or to 9 defend myself against these allegations. 10 I would never have -- I would never sign 11 off to anything like that, never. 12 I have a right to defend 13 myself in a courtroom against statements 14 and affidavits written against me. I 15 would never surrender that right on any 16 level. 17 Q So, Mr. Capogrosso, one more 18 quick question on Exhibit 19. Is this 19 the document that established your right 20 to go back to the TVB? 21 A No. 22 Q And I'll point to this last 23 part of the first paragraph where 24 Ms. Farooq writes that she is going to, 25 quote, "advise you that Mr. Capogrosso</p>
<p style="text-align: right;">Page 339</p> <p>1 M.H. Capogrosso 2 Q So is it safe to say, 3 whether or not you feel that it's part of 4 the deal, that DMV warned you in this 5 letter that threatening conduct or 6 physical violence would result in your 7 expulsion? 8 A Listen, I agreed to take an 9 anger management course. You can say 10 whatever you like. Obviously if there's 11 threatening conduct and all this other 12 stuff, you have a right to do what you 13 have to do, but I have a right to defend 14 myself as to those allegations. 15 Now, Chris told me Mario, if 16 you go back there and you sneeze the 17 wrong way they're throwing you out again. 18 He told me that. So he said he didn't 19 trust Gelbstein at all. He didn't trust 20 Gelbstein as to what he was saying. 21 I said Chris, I took the 22 anger management course. It cost me a 23 lot of money. I told you it cost me 24 what, \$10,000, 7,500, plus I had to give 25 Chris his fee. I took it and that's what</p>	<p style="text-align: right;">Page 341</p> <p>1 M.H. Capogrosso 2 may appear on behalf of his clients at 3 Traffic Violation Bureau offices as of 4 June 27, 2012." 5 A My attorney told me that I 6 could go back on June 27. My attorney 7 told me to go back. This letter was 8 thrown at me two days before I was to go 9 back from your office with all these 10 conditions. 11 I never, never surrendered 12 any right to go to trial or go to a 13 hearing and defend myself against any 14 accusations. That wouldn't make any 15 sense. Why would I do that? I'd 16 rather -- 17 Q I think you did. 18 A I would rather go to the 19 Article 78 proceeding and give myself a 20 fair chance before a judge to hear the 21 case. I would never surrender that 22 right. 23 I was told by my lawyer 24 you're free to go back on June 27, which 25 is what I did. Your office sent me that</p>

<p style="text-align: right;">Page 342</p> <p>1 M.H. Capogrosso 2 letter two days beforehand. That's when 3 I received it. 4 Q Do you think at this point 5 that the TVB wanted to get rid of you? 6 A Yeah and I think your office 7 didn't treat me fairly. That letter 8 or anything should have been sent to me a 9 hell of a lot earlier. Two days before 10 I'm going back, are you treating me fair? 11 Q Mr. Capogrosso, I'll 12 represent -- 13 A I don't think -- 14 Q -- to you that we did, in 15 fact, send exhibits. 16 A They did not treat me 17 fairly, no. Absolutely they wanted to 18 get rid of me, absolutely. 19 Q Okay. And so did you, in 20 fact, return to practice at the TVB on 21 June 27, 2012? 22 A Yes, yes. 23 Q So let's move on to a new 24 exhibit. 25 Mr. Capogrosso, do you</p>	<p style="text-align: right;">Page 344</p> <p>1 M.H. Capogrosso 2 signed the petition regarding you in 3 2011. 4 A All right. Fine. 5 Q On page 2 she writes "Mario 6 Capogrosso accused David Smart of looking 7 at him and there were heated words 8 exchanged. PO Nielsen intervened." 9 Can you tell me what 10 happened? 11 A Well, there was a hell of a 12 lot more than looking at me. When I came 13 back from the -- my anger management 14 course, which I came back in June, I had 15 to leave in December of 2011, I was told 16 by one of the clerks, Cindy, the lady I 17 was talking to who liked me I guess a 18 little bit, that a motorist came down 19 looking for me, came down looking for me 20 to give me a fee because he owed me money 21 on a case and that she was told by the 22 motorist that David took the fee. It was 23 \$80 and a \$150 fee, right. So I report 24 that to Judge Gelbstein because he stole 25 it. You steal money, you should get</p>
<p style="text-align: right;">Page 343</p> <p>1 M.H. Capogrosso 2 recognize this document? 3 A It's a Work Violence Report. 4 Q And what is it? 5 A It's a Work Violence Report 6 by one of your -- by one of your 7 representatives at the DMV, by -- Calvo's 8 name is on it. That's the name I 9 recognize. 10 Q Do you recognize Geri 11 Piparo? 12 A No. 13 MR. THOMPSON: All right. 14 Ms. MacDonald, can I ask you to mark 15 this as Exhibit 20? 16 (The above-referred-to 17 report was marked as Exhibit 20 for 18 identification as of this date.) 19 Q So, Mr. Capogrosso, do you 20 know who Geri Piparo is? 21 A No. I never heard -- 22 Q I'll represent to you -- 23 A -- of that name. 24 Q I'll represent to you that 25 she's one of the clerks and that she</p>	<p style="text-align: right;">Page 345</p> <p>1 M.H. Capogrosso 2 reported. 3 After that there was a 4 series of harassments by David Smart 5 against my person. I've gone into them 6 with you. I've gone into them. He's 7 pushed me from behind. He gave me the 8 sign of the cross and the spear hand one 9 day. He would get in my face, a couple 10 of inches, but the same David Smart that 11 approached me on May 11 after he stole 12 the money and I reported him. Get in my 13 face. What's the problem? Fuck you, 14 you're the problem. Again, fuck you, 15 you're the problem, two, three, four 16 times. 17 So I tell -- I must have 18 told this woman, you know, this guy 19 doesn't want to leave me alone. Doesn't 20 want to leave me alone. Why do I have 21 to -- 22 Q And is this -- 23 A -- be harassed because I 24 report a theft which should have been 25 reported, which is the right thing to do,</p>

<p style="text-align: right;">Page 346</p> <p>1 M.H. Capogrosso 2 so that's what was going on. 3 Q Is this incident, May 5th of 4 2014, is this the first incident or 5 confrontation you had with Mr. Smart? 6 A No, no. Like I said, I 7 walked away a million times. I have no 8 reason to have a beef with a security 9 guard. I'm a lawyer. I got two licenses 10 I have to protect. I spent a lot of 11 money, a lot of time getting this 12 license. I don't need a beef with a 13 security guard. I don't need it. I 14 walked away. 15 Q What was -- 16 A Let me finish. It's not the 17 first time, no, not the first time. 18 Q When was the first time? 19 A June of 2012. As soon as I 20 got back in, he comes up from behind me 21 and pushes me from behind. He's like -- 22 pushes me. 23 I tell Gelbstein about it. 24 He looks at the security tape I think and 25 he says you don't need this down here. I</p>	<p style="text-align: right;">Page 348</p> <p>1 M.H. Capogrosso 2 easier? 3 A Who wrote this? Wanda, 4 Wanda was a clerk. 5 Q And this document is marked 6 or is Bates stamped DMV-0000061; correct? 7 A Yeah, right. She's accusing 8 me -- okay. Go ahead. 9 Q Do you recognize this 10 document? 11 A Yeah. I see this document, 12 yeah. 13 Q And what is it? 14 A Wanda is accusing me of 15 telling a motorist to give a clerk an 16 attitude. I don't understand that. I 17 don't understand how I could tell a 18 motorist to give a clerk an attitude. I 19 mean that's just ridiculous. 20 MR. THOMPSON: Can we mark 21 this as Exhibit 21? 22 (The above-referred-to 23 statement was marked as Exhibit 21 24 for identification as of this date.) 25 A I'm telling a motorist to</p>
<p style="text-align: right;">Page 347</p> <p>1 M.H. Capogrosso 2 said the man just assaulted me from 3 behind. Are you going to do anything 4 about it? And that was the end of it. 5 He pushes me from behind, June of 2012 6 when I -- first week I was back in there. 7 I reported it to Gelbstein. 8 He looked at the videotape. He did 9 nothing about it. Did I go to the cops, 10 no, I don't go to the cops. I'm not 11 going to complain about a cop and get a 12 guy arrested. I'm not doing it. That's 13 not who I am. 14 But should he have been 15 removed from the DMV at that point in 16 time, absolutely and he wasn't. 17 Q Mr. Capogrosso, I'm bringing 18 up another document. 19 And can you see the 20 document? Can you see it okay, 21 Mr. Capogrosso? 22 A Yeah. I can't see the whole 23 thing. You have to go down. 24 Q Yeah, sure. Actually, let 25 me zoom out a little bit. Is that</p>	<p style="text-align: right;">Page 349</p> <p>1 M.H. Capogrosso 2 give a clerk an attitude? How do you 3 tell a motorist to give a clerk an 4 attitude? 5 This is the clerks I had to 6 deal with. I told the guy that I'm not 7 here to give -- now go ahead. 8 Q So what's your recollection 9 of what happened in this incident on 10 October 29, 2014? 11 A I never saw -- I was never 12 addressed with this issue. I never saw 13 this until I received this affidavit from 14 your office. 15 But she's telling me that I 16 told a guy that I'm -- to encourage the 17 motorist beforehand to give me an 18 attitude is what she's accusing me of 19 doing. Me, a lawyer, is telling a 20 motorist to go to the clerk and give the 21 clerk an attitude. 22 Q Now what -- 23 A That's what your clerks are 24 accusing me of. 25 Q But, sir, do you have,</p>

<p style="text-align: right;">Page 350</p> <p>1 M.H. Capogrosso 2 sitting here today at the deposition, do 3 you have any independent recollection of 4 this? 5 A No, absolutely not because I 6 wouldn't even know how to say that to a 7 motorist. Go to a clerk -- no, I have no 8 knowledge of this. I would not know how 9 to tell -- 10 Q So -- 11 A I would not know how to tell 12 a motorist to go give a clerk an 13 attitude. I mean this is a clerk whose 14 got some issues. I was -- 15 Q So did this happen? 16 A I don't know. No, it didn't 17 happen, number one and it's ludicrous. 18 How do you tell a motorist to give a 19 clerk an attitude and these are the 20 clerks I got to deal with. 21 Q So is it Ms. Alford lying 22 here? 23 A I did not tell a motorist to 24 give a clerk an attitude. I did not. 25 That's a ridiculous friggon -- that's</p>	<p style="text-align: right;">Page 352</p> <p>1 M.H. Capogrosso 2 Q Did Ms. Alford not want you 3 there? 4 A Who's Ms. Alford? Wanda? 5 Q Wanda Alford who -- 6 A I don't know. 7 Q -- wrote the letter. 8 A I don't know. This is the 9 first -- the first time I saw this 10 complaint that I have an opportunity to 11 respond to is when you sent it to me and 12 I don't even know how to respond to it. 13 I wouldn't know how to deal with this. 14 I'm accused of telling a motorist to give 15 a clerk an attitude. 16 MR. THOMPSON: And, 17 Ms. MacDonald, if we didn't do that 18 already, let's mark that as Exhibit 19 21. 20 A Is that threatening conduct 21 or verbal abuse? 22 Q Mr. Capogrosso, can you see 23 the document that I just put up? 24 A Yeah. This is something 25 David Smart wrote.</p>
<p style="text-align: right;">Page 351</p> <p>1 M.H. Capogrosso 2 a -- excuse my language. That's a 3 ridiculous accusation against me, 4 ridiculous, but these are the type of 5 clerks I have to deal with. 6 Q So the question was do you 7 believe that she's lying here? 8 A I did not tell a motorist to 9 give a clerk an attitude. I did not. 10 Now -- 11 Q I understand that, but yes 12 or no? 13 A Maybe she -- I don't know 14 what she's thinking, but I did not tell a 15 clerk -- a motorist to give a clerk an 16 attitude. First of all, I don't even 17 know how to do that or how a motorist 18 would know how to do that. How would a 19 motorist know how to give a clerk an 20 attitude? 21 Q So why would she write this? 22 A I don't know. I don't know. 23 They didn't want me there. I don't know. 24 Maybe you got a bunch of crazy clerks 25 down there.</p>	<p style="text-align: right;">Page 353</p> <p>1 M.H. Capogrosso 2 Q Do you recognize this? 3 A Yeah. I saw it when you 4 gave it to me, yes. He signed something. 5 It's an unsigned note of David Smart. 6 Q And this is -- this document 7 is marked Gelb-0000059; correct? 8 A Yeah. 9 Q What is this document? 10 A Some type of complaint by -- 11 on February 3, I don't know what year, 12 9:15 a.m. Smarts telling me that I 13 deliberately walked into him. I am -- 14 there's a board -- 15 Q Mr. Capogrosso, I'm sorry, 16 we lost your audio for a second there. 17 Can you restate that? 18 A Yeah. This is -- I'm being 19 accused -- I'm being accused of walking 20 into a security guard. Now, at the DMV 21 there's a board that was hanging up when 22 I was there and every day there was a 23 calendar on the board as in most 24 courthouses that tell you where each case 25 is going to be heard.</p>

<p style="text-align: right;">Page 354</p> <p>1 M.H. Capogrosso 2 I go in the morning, right. 3 David would put up or somebody would put 4 up the calendar. Most times it was David 5 Smart and in the afternoon he would take 6 it down. So I have to go to the calendar 7 to look at the calendar because in the 8 morning there's a lot of people and 9 everybody's rushing around here and 10 there. You have to know what courtroom 11 to go in.</p> <p>12 So I'm walking to the 13 calendar and he tells -- and I'm trying 14 to go to the calendar and he tells me I 15 deliberately walked into him. I mean 16 that's just stupid. We are both working 17 in the same location. We both have to go 18 to the calendar. He has to hang it up 19 and I have to look at it.</p> <p>20 I'm deliberately walking 21 into a security? I have to work in this 22 courthouse. I'm sorry. As a lawyer I 23 have to go to the board and look at the 24 docket to see where my case is being 25 held. This is what I'm being accused of,</p>	<p style="text-align: right;">Page 356</p> <p>1 M.H. Capogrosso 2 Gelbstein that he stole \$80 and a \$150 3 fee and I found that out when I got back 4 after taking my anger management course. 5 I told you that. Cindy told --</p> <p>6 Q And --</p> <p>7 A And then I wrote to the 8 motorist. The motorist confirmed it. I 9 didn't go to the police because that's 10 not what I do. I'm not going to get the 11 guy arrested. Like maybe I should have 12 looking back on this thing now.</p> <p>13 Q And would you have --</p> <p>14 A Gelbstein investigated it. 15 Gelbstein admits to me that Smart said he 16 took the money and he gave it to me, 17 which is an absolute lie. First of all, 18 I authorized nobody to take money on my 19 behalf, collect money on my behalf. He 20 had no authority to collect a fee on my 21 behalf, this security guard, Smart and 22 Gelbstein believes it, that he gave me 23 the money. Gelbstein believes this.</p> <p>24 I told him the security 25 guard had no authority to take the money,</p>
<p style="text-align: right;">Page 355</p> <p>1 M.H. Capogrosso 2 deliberately walking into a guard. 3 We work in the same 4 building. We both have to go to the -- 5 to the board in the morning, to the 6 docket. He has to hang it up. I got to 7 look at it to see where my case is. 8 That's all I have to say about this.</p> <p>9 Q So is Mr. Smart lying?</p> <p>10 A That I deliberately walked 11 into him, yes, absolutely. I don't 12 need --</p> <p>13 Q Why is he --</p> <p>14 A -- this beef with a security 15 guard. I don't need a beef with a 16 security guard at a courthouse that I'm 17 trying to make a living at.</p> <p>18 Q And why do you think he's 19 lying?</p> <p>20 A I don't know. Why would I 21 deliberately walk into a security -- I'm 22 going to the board to check the calendar.</p> <p>23 Q Did he have any animis 24 towards you?</p> <p>25 A I told you, I reported to</p>	<p style="text-align: right;">Page 357</p> <p>1 M.H. Capogrosso 2 but he allows the security guard to stay 3 and then the harassment started and I 4 guess this is one of the ways he did it. 5 He's saying I deliberately walked into 6 him.</p> <p>7 Q And would it be correct to 8 say that you feel that Mr. Smart had a 9 grudge against you after this?</p> <p>10 A Absolutely, absolutely he 11 had a grudge. He wouldn't let it go. If 12 you steal, I'm going to report it. It's 13 a theft. It's a theft. I am a lawyer. 14 I am an officer of the court. You steal, 15 you're not stealing from me. You're 16 stealing from that cab driver who \$80 is 17 a lot of money to.</p> <p>18 Q And do you believe that he 19 wanted -- not he. Do you believe that 20 Mr. Smart wanted to get rid of you --</p> <p>21 A Absolutely.</p> <p>22 Q -- because of this threat?</p> <p>23 A Absolutely. He wouldn't 24 start the harassment. I told you all the 25 incidents. He gets in my face. What's</p>

<p style="text-align: right;">Page 358</p> <p>1 M.H. Capogrosso 2 the problem? Fuck you, you're the 3 problem. I told you that. 4 Q One last question. 5 Mr. Capogrosso, this note is marked 6 February 3 at 9:15 a.m. Do you recall 7 what year this was? 8 A It was after. I don't know. 9 It's the first time -- the only time I 10 saw this note is when you produced it to 11 me in discovery. I assume -- I assume it 12 was after the incident with Brody because 13 that's when I reported the theft. 14 Q After the incident with? 15 I'm sorry, I didn't quite hear that. 16 A With Brody. It was after I 17 came back in June of 2012 -- 18 Q Okay. 19 A -- because that's when I 20 reported the theft. 21 Q So, Mr. Capogrosso, I'm 22 going to bring up -- 23 MR. THOMPSON: Oh, and 24 actually before we are done, I don't 25 know if I marked that, but</p>	<p style="text-align: right;">Page 360</p> <p>1 M.H. Capogrosso 2 as Exhibit 23? 3 (The above-referred-to 4 statement was marked as Exhibit 23 5 for identification as of this date.) 6 Q And, Mr. Capogrosso, who is 7 Paul Perez? 8 A What I remember, he was a 9 motorist that came down to the DMV. I 10 did not represent him on any hearings 11 even though there's a work -- there's an 12 incident report that says I represented 13 him in court. I never represented -- and 14 it could have been investigated and it 15 wasn't. I never represented him on his 16 hearing. 17 He had a hearing before 18 Judge Walters, that I know because I was 19 sitting outside the courtroom. He came 20 outside the courtroom while I was sitting 21 on the bench and I think he was with his 22 girlfriend and they asked me if I'm a 23 lawyer because I'm sitting there with a 24 suit on and my calendar and can you help 25 him write an appeal. I said I'll take</p>
<p style="text-align: right;">Page 359</p> <p>1 M.H. Capogrosso 2 Ms. MacDonald if we didn't please 3 mark that as Exhibit 22, that note. 4 (The above-referred-to note 5 was marked as Exhibit 22 for 6 identification as of this date.) 7 Q Mr. Capogrosso, do you see 8 the document that I just put up? 9 A Yeah, Paul Perez. 10 Absolutely, I remember this one. 11 Q And do you recognize this 12 document? 13 A Well, I recognize it because 14 you produced it. I never saw it before. 15 Just the fact that you produced it. 16 Q And this document is marked 17 Gelb-0000058; correct? 18 A Yes. 19 Q And it's your testimony that 20 you never saw this document before the 21 case; correct? 22 A I never saw any of these 23 affidavits before this case. 24 MR. THOMPSON: Ms. 25 MacDonald, can I ask you to mark this</p>	<p style="text-align: right;">Page 361</p> <p>1 M.H. Capogrosso 2 the appeal. He was very nice when I 3 first met him, very nice. Sat down, I 4 said I'll take it on appeal. Collect a 5 fee on the appeal. 6 I never represented him in a 7 courtroom. I did not get his license 8 suspended. I was not the -- I was not in 9 the courtroom with him. I did not argue 10 his case. I was hired to write the 11 appeal. 12 The next day he comes down. 13 He finds out that his license got 14 suspended. This guy had a terrible 15 license, terrible. He comes in, comes at 16 me, starts yelling at me. I said here, 17 take your appeal -- take your appeal and 18 I gave him his money back. 19 No. First thing he says 20 was -- is that he curses me out. He says 21 I'm going to cut you with a knife and 22 slash the tires of your car. I said I 23 didn't get your license suspended. I'm 24 hired to write the appeal. I'm going to 25 cut you -- his exact words, I'll never</p>

<p style="text-align: right;">Page 362</p> <p>1 M.H. Capogrosso 2 forget it, I'm going to cut you with a 3 knife and I'm going to slash tires of 4 your car. 5 At that point I gave him his 6 money back on his appeal and he keeps 7 saying it to me, I'm going to cut you 8 with a knife, I'm going to slash the 9 tires of your car. 10 I look around for the 11 security guard. He's nowhere to be 12 found, Smart. Smart's not there. The 13 police officers are there, but they're 14 not doing anything about this. 15 At that point in time 16 Gelbstein told me if you got an unruly 17 client -- and I don't know if this guy's 18 got a knife on him or not, I really don't 19 know because there's no -- there's no 20 metal detectors coming into DMV. You 21 just walk in and out. You can carry 22 anything you want, guns, knives, 23 whatever. 24 Gelbstein told me if you got 25 a bad client, unruly client, you got to</p>	<p style="text-align: right;">Page 364</p> <p>1 M.H. Capogrosso 2 courtroom, I did not argue his case, I 3 did not get his license suspended. I did 4 not. 5 And the facts of this case 6 were never investigated, nor was my -- 7 nor was I ever given an opportunity to 8 state what happened in this case. 9 Apparently -- 10 Q Mr. Capogrosso -- 11 A -- but Perez made a 12 statement. 13 Go ahead. 14 Q Mr. Capogrosso, when Perez 15 writes that you were taking on a case for 16 him and, quote, "didn't live up to his 17 responsibility," what does he mean? 18 A I have no idea. I don't 19 know. I don't know. The next day he 20 comes in, the day after he got suspended 21 in court, the day after Walters suspended 22 his license he comes in and tells me I'm 23 going to cut you with a knife and slash 24 the tires. 25 I didn't argue your case,</p>
<p style="text-align: right;">Page 363</p> <p>1 M.H. Capogrosso 2 go outside the courthouse and speak to 3 him outside, which I proceeded to do with 4 this guy. He just threatened me twice, 5 he's going to cut me with a knife and 6 slash the tires of my car. I said let's 7 go outside, we got to talk, which is what 8 Gelbstein told me to do and I obeyed. 9 That's what happened here. 10 And he didn't go out -- he 11 walked halfway and he turned around. I 12 obeyed what defendant Gelbstein told me 13 to do. I'm not going to be threatened 14 with a knife and tell me the tires of my 15 car were going to be slashed. The 16 security guard is nowhere to be found, 17 Smart. The police officers don't want to 18 get involved. It's not going to happen 19 to me. 20 And I obeyed what Gelbstein 21 did. I went out -- he said talk to him 22 outside. I said let's go talk outside, 23 which is what I did. That's what 24 happened here. And it could have been 25 investigated, that I was not in this</p>	<p style="text-align: right;">Page 365</p> <p>1 M.H. Capogrosso 2 Mr. Perez. I didn't argue your case. 3 Here's your money back on the appeal. I 4 don't want you as a -- take your money 5 back. I'm not going to -- I'm not 6 going -- I'm not going to be threatened 7 by a client with a knife. 8 Q Do you think -- do you think 9 he blamed you for the loss of his case at 10 the TVB? 11 A I think he might have been 12 on drugs, seriously on drugs this guy 13 because when I met him for the first 14 time, he was a normal nice guy, normal, 15 had a normal conversation because I could 16 size up a guy pretty quickly. I've been 17 dealing with these clients for a long 18 time. I can size you up. He was normal 19 and nice. His girlfriend was nice. 20 The next day I'm cutting you 21 with a knife and I'm slashing the tires 22 of your car. That's the incident. 23 That's what happened. 24 Q So his version of events 25 says that he told you he wanted another</p>

<p style="text-align: right;">Page 366</p> <p>1 M.H. Capogrosso 2 lawyer and his money back and that you 3 told him to go fuck myself and that we 4 can take it outside. 5 A I gave him the -- 6 Q Is that true? 7 A No. First of all, I didn't 8 argue the case. He hired me on the 9 appeal. He hired me on the appeal. I 10 gave him his money back right away. I 11 gave him his money back. I took -- 12 Q Did you tell him -- 13 A Let me finish. If I didn't 14 give him money back, right, because every 15 time I give money back I take the receipt 16 back. He would have produced my receipt 17 and he doesn't produce it. I give him a 18 business card with my receipt on the 19 back. I sign my name to it. I tell him 20 the total amount, the amount paid. 21 But if I give you the money 22 back, which I did here, he gives me the 23 receipt back this way I'm not going to -- 24 this way he has proof -- I have proof I 25 gave him the money back, he no longer has</p>	<p style="text-align: right;">Page 368</p> <p>1 M.H. Capogrosso 2 written the appeal in a day anyway. Take 3 your money back. Because I didn't mess 4 up his case in any way. I didn't mess it 5 up because I didn't argue it and I was 6 given no opportunity to argue the appeal, 7 so I messed up nothing. I messed up 8 nothing. 9 He came back the next day 10 and if you investigated the facts of this 11 you would have seen it, at that -- at 12 which point in time he tells me I'm going 13 to cut you with a knife and I'm going to 14 slash the tires of your car. 15 Take your money back and 16 then he repeatedly tells me he's going to 17 cut me with a knife and slash the tires 18 of my car. At that point, like I said, I 19 looked for the security guard, not there. 20 This is what happened. The police were 21 standing there. They did nothing. After 22 he repeatedly telling I'm going to cut 23 you with a knife and slash the tires on 24 your car, I said we have to talk outside. 25 That's what I said.</p>
<p style="text-align: right;">Page 367</p> <p>1 M.H. Capogrosso 2 my receipt, right. 3 He doesn't produce the 4 receipt here. I gave him my money back 5 and he, like he said -- 6 Q So -- 7 A -- he's going to cut me with 8 a knife and slash the tires of my car. 9 Q Mr. Capogrosso, did you tell 10 him to go fuck himself? 11 A I don't remember what I 12 said. After you tell me to go -- after 13 you tell me you're going to slash my 14 tires, he's going to cut me with a knife 15 and slash the tires of my car, I might 16 have said that. I might have told him 17 fuck, yes, I might have said something 18 like that. 19 Q Did you tell him that you'd 20 take it outside? 21 A I looked around for the 22 security -- no. What I said was this and 23 I'll tell it exactly again, I said here's 24 your money back. He came in the next 25 day. There was no way I could have</p>	<p style="text-align: right;">Page 369</p> <p>1 M.H. Capogrosso 2 Q So you said we have to talk 3 outside? 4 A I said we have to talk 5 outside is what I said. The guy might be 6 having -- the guy might have a knife on 7 him. I don't know what he's got on him. 8 Q So -- 9 A There's no camera. There is 10 no -- when you walk in the TVB, there is 11 no metal detectors there. There's nobody 12 checking. Anybody can walk in. I did 13 what I had to do in that -- 14 Q So this -- 15 A I did what I had to do in 16 that instance. 17 Q So, Mr. Capogrosso, is Paul 18 Perez lying in this statement that he 19 made? 20 A I didn't mess up. He's 21 lying there. I never messed up. I 22 didn't argue the case and I didn't have 23 any time to write the appeal, so I didn't 24 mess up. 25 Q So why would --</p>

<p style="text-align: right;">Page 370</p> <p>1 M.H. Capogrosso 2 A I gave him his money back. 3 Q -- he lie about you? 4 A I'm telling you what 5 happened. I don't know why he would lie. 6 Ask him. I'm telling you the facts. He 7 did lie because if you investigated the 8 facts and Danielle Calvo investigated it, 9 she would have seen that I didn't 10 represent him in a courthouse -- in the 11 hearing room. There's the lie. I never 12 was in the hearing room with him, ever 13 and the incident report that was written 14 indicates that I argued three cases for 15 him. That is a lie. 16 I never argued three cases 17 for him and got him suspended. I was 18 never in the hearing room. 19 Q But why would he lie though? 20 A I don't know why. Ask him 21 why. He was upset I would imagine. I 22 can't speculate to that. I never argued 23 three cases for him in the -- in the 24 hearing room, I never argued, but that's 25 what the report says --</p>	<p style="text-align: right;">Page 372</p> <p>1 M.H. Capogrosso 2 Q And this one is marked -- 3 Bates stamped DMV-0000059; correct? 4 A Yeah. 5 MR. THOMPSON: Ms. 6 MacDonald, if we could mark that as 7 Exhibit 24. 8 (The above-referred-to 9 statement was marked as Exhibit 24 10 for identification as of this date.). 11 Q So who is Melissa Vergara? 12 A I have no idea who Melissa 13 is. 14 Q So she says she was sitting 15 at information station 7, so does that 16 refresh your recollection at all? 17 A No. 18 Q But if she was sitting at an 19 information station, she was probably a 20 clerk; right? 21 A Well, yeah. She would be a 22 clerk, yeah. 23 Q So as you said she's talking 24 about the situation with Mr. Perez. She 25 says she could hear arguing between Mario</p>
<p style="text-align: right;">Page 371</p> <p>1 M.H. Capogrosso 2 Q And how -- 3 A -- I argued three cases. He 4 is lying. Why he's lying, I don't know, 5 but he is lying. He's upset his license 6 got suspended. I didn't suspend his 7 license. The judge suspended him. 8 MR. THOMPSON: Ms. 9 MacDonald, can you mark that document 10 for Mr. Perez if we haven't already 11 as Exhibit 23. 12 Q Mr. Capogrosso, I'm about to 13 show you another document. Do you 14 recognize this document, sir? 15 A Can you go down a little 16 bit? 17 Q Sure. 18 A Yeah. This is Perez, this 19 thing with Perez. Who wrote this one? 20 Melissa, who's Melissa? I don't know who 21 Melissa is, but go ahead. I've seen this 22 document, yeah. 23 Q And what is this document? 24 A It's another affidavit that 25 was submitted against me.</p>	<p style="text-align: right;">Page 373</p> <p>1 M.H. Capogrosso 2 Capogrosso and a male motorist who was 3 later identified as Paul Perez. 4 A Yup. I was arguing with the 5 man, yes. 6 Q And then she writes and I'll 7 highlight this on the screen, "In a clear 8 and hostile tone, Mr. Capogrosso said to 9 the motorist to take this outside. 10 Originally the motorist began following. 11 He had even taken off his jacket and 12 swung it on to a stanchion, but only got 13 about halfway before he stopped himself, 14 turned around, picked up his jacket and 15 placed himself in the information line. 16 Mr. Capogrosso did not. He kept walking 17 to the door." 18 Does that refresh your 19 recollection of what happened? 20 A Yeah, that's what happened. 21 After he said he was going to cut me with 22 a knife and slash the tires on my car, he 23 said it more than once to me, I looked 24 around for the security guard, nowhere to 25 be there. Police officer didn't get</p>

<p style="text-align: right;">Page 374</p> <p>1 M.H. Capogrosso 2 involved. Gelbstein told me we have to 3 talk outside. I said we got to go 4 outside and talk. 5 I started walking to the 6 door to talk to this man and he stopped. 7 Q Ms. Vergara -- 8 A That's what happened. 9 Q Ms. Vergara also says that 10 you said to take it outside. Do you 11 recall that? 12 A I said we have to talk 13 outside. 14 Q Okay. 15 A We have to talk outside is 16 what I said. We have to go outside and 17 talk, which is what Gelbstein told me to 18 do. You know, I don't go to the DMV to 19 get cut and slashed by a motorist. I 20 don't go there for that. I go there to 21 represent clients and make a living. 22 Now, there should have been 23 a security guard in there intervening or 24 the police should have intervened, I 25 should not have been put in this</p>	<p style="text-align: right;">Page 376</p> <p>1 M.H. Capogrosso 2 not get the man's license suspended. 3 Q So, Mr. Capogrosso, I'm 4 bringing up another document. Do you 5 recognize this document? 6 A Yes. I recognize Melanie 7 Levine. 8 Q And what is this document? 9 A That's the incident report 10 concerning Mr. Perez. 11 MR. THOMPSON: And, 12 Ms. MacDonald, can I ask you to 13 please mark this as Exhibit 25? 14 (The above-referred-to 15 report was marked as Exhibit 25 for 16 identification as of this date.). 17 Q So, Mr. Capogrosso, who is 18 Melanie Levine? 19 A Well, I thought she was a 20 clerk, but she's actually a supervisor of 21 the clerks down at the DMV, Brooklyn TVB. 22 Q And she writes that you did 23 represent Mr. Perez at trial for three 24 violations. If she's a clerk, is she in 25 a position to know whether or not you did</p>
<p style="text-align: right;">Page 375</p> <p>1 M.H. Capogrosso 2 situation, but neither one did. And I 3 should not have been told by Gelbstein in 4 a situation like this to go outside the 5 courtroom and talk to him about it. 6 Q And do you think -- 7 A I don't go to a courtroom -- 8 where most courthouses they have metal 9 detectors, this one has none. Where I'm 10 going to be told I'm going to get cut 11 with a knife and slash the tires on my 12 car and I got to sit there and be quiet. 13 Q And do you think they didn't 14 do anything because they wanted you gone? 15 A I don't know. Nobody got 16 involved. Smart didn't get involved. 17 Nobody took my affidavit as to what 18 happened. Nobody investigated the facts 19 as to what happened because they would 20 have seen I never represented him in a 21 courthouse. I never represented him in a 22 trial, I never did and they would have 23 seen that. But in the incident report 24 they wrote, they state that I represented 25 him in a hearing, which is a lie. I did</p>	<p style="text-align: right;">Page 377</p> <p>1 M.H. Capogrosso 2 that? 3 A If she's a supervisory 4 clerk, yes. 5 Q So she writes that "Attorney 6 Capogrosso and Mr. Perez engaged in a 7 very loud verbal argument in the lobby 8 with threats of escalating to a physical 9 altercation outside in the parking lot." 10 A I told you what happened. 11 She never took my affidavit. The man 12 threatened to cut me with a knife and 13 slash the tires on my car twice. 14 Q Well, she writes later on 15 even afterwards that -- I highlighted 16 that wrong -- that "Attorney Capogrosso 17 continued to verbally provoke Mr. Perez 18 into going outside while he was on line 19 and throughout his experience at the 20 service counter being helped by MVR 21 Melissa." 22 A That's an absolute lie. 23 That's an absolute lie. I'm not 24 provoking a guy with a knife who wants to 25 cut me for a further altercation. I'm</p>

<p style="text-align: right;">Page 378</p> <p>1 M.H. Capogrosso 2 not doing that. I don't know the worst 3 idiot in the world who's doing that. I 4 don't know the worst -- that's an 5 absolute lie. 6 Q So why would Melanie lie? 7 A I don't know why. That's an 8 absolute lie. I never continued to 9 provoke. I walked to the door. He 10 stopped. He went back on line. I guess 11 he thought he didn't want to get involved 12 with this any longer and he went back on 13 line. I turned away. I never provoked 14 that incident any further. 15 I've been in incidents like 16 this before, I didn't provoke it, but the 17 man was telling me twice he wants to cut 18 me with a knife. There was no security 19 guard. The police chose not to get 20 involved. I said we have to talk about 21 this outside at this point in time. I 22 start walking to the door and he stops. 23 That's what I remember and that's what 24 happened. 25 Why she's writing this, I</p>	<p style="text-align: right;">Page 380</p> <p>1 M.H. Capogrosso 2 say things. I don't know why. But tell 3 me what words I used to provoke. Tell me 4 what words I actually stated. They're 5 not there. I provoked nothing. Tell me 6 what words I used to provoke. 7 Q Well, this is sort of an 8 overview -- well, I think the word, one 9 of the words is take this outside. 10 But, Mr. Capogrosso, I think 11 this speaks to sort of a broader question 12 in this case, which is there are all of 13 these documents alleging that you -- 14 A Well, I'm going to respond 15 to each document separately, separately. 16 Q And we've been addressing 17 them separately, but it's worth talking 18 about them together because -- 19 A Okay. What's your question? 20 Q -- each of these documents 21 that you're saying -- 22 A Counselor -- 23 Q -- are broad -- 24 A Counselor, what is your 25 question?</p>
<p style="text-align: right;">Page 379</p> <p>1 M.H. Capogrosso 2 don't know. If she investigated the 3 facts of this she would have seen I never 4 represented him in a courtroom and she 5 didn't investigate the facts and she 6 never asked my story on it. 7 Q So Ms. Vergara and 8 Ms. Levine both said that even after he 9 went back in, you continued to provoke 10 him. 11 A I didn't provoke him. I was 12 standing there watching him. I don't 13 know if this guy's coming at me with a 14 knife at this point. I didn't provoke. 15 I'm watching. That's not provoking. I'm 16 watching the man. I'm watching to see if 17 my car -- my tires on my car get slashed, 18 which I'm allowed to do. 19 Q Then why would -- 20 A I was not provoking. 21 Q So why would they say 22 something -- 23 A I don't know why. 24 Q -- that's not true? 25 A You keep asking me why they</p>	<p style="text-align: right;">Page 381</p> <p>1 M.H. Capogrosso 2 Q I'm getting there. There 3 are all these documents we've been 4 talking about written by different 5 people, each of which you say are lies, 6 each of which say more or less the same 7 thing, that you verbally or physically 8 threatened or intimidated somebody. 9 Why are there so many people 10 saying this and why are they all lying 11 about you? 12 A I've addressed each 13 affidavit individually and I've told you 14 my statement on each affidavit, each 15 affidavit. I was there 10 years. I told 16 you my statement on each affidavit and 17 I've given you those reasons already. 18 I'm not going to go into them again, but 19 I'm telling you on this affidavit what 20 happened that day. 21 Q And you don't think there's 22 a pattern here? 23 A I responded to each 24 affidavit individually. No, I do not 25 think there's a pattern, no.</p>

<p style="text-align: right;">Page 382</p> <p>1 M.H. Capogrosso 2 Q Why not? 3 A He told me he was going to 4 cut me a knife, slash the tires on my car 5 twice. I was told my Gelbstein if you 6 got an unruly client, talk to him outside 7 the courtroom, which is what I did. That 8 is not provoking. That is not 9 threatening. That is not verbal abusing. 10 He walked to the line. I 11 didn't -- I walked halfway and I stopped. 12 I kept my eyes on this guy and I made 13 sure he didn't cut the tires on my car. 14 I did nothing wrong there. 15 I do not think there's a 16 pattern. I think each affidavit has to 17 be taken individually and you tell me the 18 facts of each affidavit. There is no 19 pattern. 20 Q Would someone who's not 21 familiar with your situation, like Bushra 22 Vahdat or Ida Traschen, see a pattern in 23 all of these complaints? 24 A Well, maybe if they asked me 25 my opinion as to what happened and gave</p>	<p style="text-align: right;">Page 384</p> <p>1 M.H. Capogrosso 2 Q Do they have an obligation 3 to investigate every single complaint? 4 A Yeah, they do. If you're 5 going to put me out of work, yeah, they 6 do. Yes, they do. I don't care how long 7 it takes. If you're going to use it to 8 put me out of work, you better 9 investigate it -- 10 Q And what's -- 11 A -- otherwise you're not 12 giving me a fair chance. 13 Q And what's the legal 14 authority for your contention that they 15 had an obligation to investigate all 16 these? 17 A Because are they truthful or 18 not? Are they truthful, the truth? Is 19 there any substance to any of them? 20 Anybody can make an allegation. 21 Q So, Mr. Capogrosso, I 22 understand that, but -- 23 A I can walk into the DMV and 24 make allegations. 25 Q Mr. --</p>
<p style="text-align: right;">Page 383</p> <p>1 M.H. Capogrosso 2 me an opportunity to state my opinion, 3 then they would have seen what actually 4 happened here, but they gave me no 5 opportunity, none. They write an 6 incident report that's a lie because they 7 could have investigated it and they 8 didn't. 9 I didn't represent this guy 10 Perez. They have -- so I don't know what 11 they're going to -- at least ask me my 12 opinion as to what happened on each case 13 and give me an opportunity to defend 14 myself. 15 Q I mean how many 16 investigations are they supposed to run? 17 You know, at this point we are on Exhibit 18 25 we just went through. How many 19 investigations are they supposed to have 20 made? 21 A Counsel, anybody can write 22 an allegation. Anybody can write an 23 affidavit. If you're going to write it, 24 then defend it and give me an opportunity 25 to respond to it.</p>	<p style="text-align: right;">Page 385</p> <p>1 M.H. Capogrosso 2 A I can walk -- wait a minute. 3 I can walk into the DMV and make 4 allegation, allegation and allegation and 5 you know what, they would throw me out 6 because I made allegations. 7 Q Mr. Capogrosso, but the 8 question was are you aware of any statute 9 or regulation or other legal authority 10 requiring the investigations that you're 11 demanding? 12 A I think if you're to make an 13 allegation against a guy, you got to give 14 a guy a chance to defend himself, hear 15 the facts, otherwise it's not a -- 16 there's no allegation, just a one-sided 17 statement. 18 Q Mr. Capogrosso, I would 19 appreciate it if you can answer this 20 question yes or no. Are you aware of any 21 statute, regulation or other legal 22 authority that requires the 23 investigations that you're demanding? 24 A How about the 14th 25 Amendment, due process of law?</p>

<p style="text-align: right;">Page 386</p> <p>1 M.H. Capogrosso 2 Q What does that mean to you? 3 A To me it means I get a fair 4 hearing. I get a chance to defend 5 myself, present evidence, give an 6 affidavit in response. The due process, 7 the 14th Amendment to the Constitution. 8 Due process, you're a lawyer. Let me 9 tell my side. Let an independent 10 somebody -- let them hear my side, give 11 evidence -- 12 Q And -- 13 A -- present witnesses, give 14 my statement -- 15 Q And Mr. Capogrosso -- 16 A -- do an investigation. 17 Q Mr. Capogrosso, are you -- 18 A It can't be all one sided. 19 Q Mr. Capogrosso -- 20 A You have to let me finish. 21 Q No. Let me -- I have 22 another question, so let me state my 23 question. Are you aware that your due 24 process complaint was dismissed by Judge 25 Brody?</p>	<p style="text-align: right;">Page 388</p> <p>1 M.H. Capogrosso 2 Q Mr. Capogrosso, the federal 3 court did dismiss your due process claim. 4 That's no longer a part of this case. 5 A All right. Fine. So let 6 me go down to the -- 7 Q You know that; right? 8 A Let me go down to the 9 Brooklyn TVB and take a knife. Is that 10 what you want me to do? Is that what the 11 DMV wants me to do, take a knife? 12 Q Are you -- 13 A Get cut by a motorist, is 14 that acceptable? 15 Q Are you threatening that? 16 A No. I'm not threatening 17 that, but that's what you want. No, you 18 want me to take a knife. You want 19 Mr. Perez to come down and slice up an 20 attorney. 21 Q No. No one wants that. 22 A Well, then what would you 23 want me to do in this instance? 24 Q Well -- 25 A It's ridiculous.</p>
<p style="text-align: right;">Page 387</p> <p>1 M.H. Capogrosso 2 A I had a right to be heard on 3 these complaints. Anybody can write a 4 complaint. This one by Perez is 5 ridiculous. The man wants to cut me with 6 a knife and you're telling me that that's 7 acceptable in your -- in this courthouse. 8 Q Mr. Capogrosso, my question 9 was are you aware that your due process 10 claim was dismissed? 11 A No. I do not. 12 Q No, you're not aware of 13 that? 14 A No, I'm not. Maybe it was 15 dismissed, but when I was working at 16 this, they should have heard my side of 17 the story. 18 Q But -- 19 A Mr. Perez comes down and 20 threatens me with a knife twice, twice -- 21 Q But Mr. Capogrosso -- 22 A -- and nobody takes my 23 affidavit concerning this. I mean is 24 this -- is this whole system just 25 ludicrous?</p>	<p style="text-align: right;">Page 389</p> <p>1 M.H. Capogrosso 2 Q Well, if the incident 3 didn't -- 4 A You have no metal detectors, 5 no metal detectors, no security guard to 6 be found, told by Gelbstein to talk to -- 7 to take the motorist outside. 8 I did nothing wrong here. 9 I'm sorry, I didn't. Let a Brooklyn jury 10 hear it. 11 Q All right. Let's move on. 12 Mr. Capogrosso, I'm going to show you 13 another document. Do you recognize this 14 document, sir? 15 A No. This one I don't know, 16 no. 17 Q This document is -- 18 A It's talking about a paper 19 clip. I don't know what this is about a 20 paper clip. I have no idea. 21 Q Marked Gelb-0000035; 22 correct? 23 A Yeah. 24 Q And I'll represent to you 25 it's an e-mail from Geri Piparo sent on</p>

<p style="text-align: right;">Page 390</p> <p>1 M.H. Capogrosso 2 Monday, February 9, 2015. 3 A You have a clerk leaving one 4 paper clip, one paper clip every morning. 5 I don't understand what this is about, 6 but that's what she's doing. For an 7 attorney to use, for what reason leaving 8 one paper clip. 9 This is the type of clerks 10 you have down there. She's leaving one 11 paper clip for an attorney to use, any 12 attorney. 13 Q So -- 14 A I don't understand what your 15 clerks get paid to do, but this is what 16 she likes to do. 17 Q Why is that -- 18 Mr. Capogrosso, if I can ask, why is 19 it -- why is there a problem with leaving 20 a paper clip on a garbage pail? 21 A There is none, do whatever 22 you want, but it doesn't make any sense. 23 What are you doing it for? What's the 24 purpose? What is this Geri, whatever her 25 name is, get paid to do?</p>	<p style="text-align: right;">Page 392</p> <p>1 M.H. Capogrosso 2 You have -- 3 Q So -- 4 A It's absolutely stupid. Did 5 I complain about it, no. Did I care 6 about it, no. 7 Q She then writes "On November 8 18 as I was walking through the office, 9 Mr. Capogrosso was with a customer and as 10 I passed he said Geri, stick it where the 11 sun don't shine." 12 A No. I never said that. 13 Q You never said that? 14 A No. I could care less -- 15 Q Did you say anything like 16 that? 17 A No. I could care less about 18 a paper clip. I could care less about a 19 paper clip. 20 Q I don't think that statement 21 was in connection with the paper clip. I 22 think she said that that was a different 23 incident. 24 A Well, concerning what? 25 Concerning what?</p>
<p style="text-align: right;">Page 391</p> <p>1 M.H. Capogrosso 2 But there is no -- there is 3 no reason, but I never said -- it doesn't 4 make any sense to me this whole thing. 5 It doesn't make any sense. 6 Q Did you make a complaint to 7 Judge Gelbstein about this paper clip? 8 A No. Absolutely not. No. 9 Q So why would she say that 10 you did? 11 A I don't know. She admits to 12 doing it, it doesn't make a whole lot of 13 sense, but she does what she does. This 14 is what your clerks at the DMV get paid 15 to do. 16 Q Is she lying? 17 A About leaving the clip, no. 18 Did I make a complaint about it, no. I 19 could care less about a paper clip. 20 Q So is she lying about your 21 conduct with the paper clip? 22 A Absolutely. I could give a 23 damn about a paper clip. Was it stupid 24 that clerks have to waste time doing 25 nonsense stuff like this, yes, stupid.</p>	<p style="text-align: right;">Page 393</p> <p>1 M.H. Capogrosso 2 Q It's not clear. 3 A Well, tell me what exactly 4 I'm being accused of. I could care less 5 about a paper clip. Tell me exactly. 6 Q She says that you told her 7 to stick it where the sun don't shine. 8 A For what reason would I say 9 that? Tell me why I would say that. 10 Q I don't know. You're the 11 deponent. You tell me. 12 A I don't know why. I don't 13 know why. I did not say it and tell me 14 why she thinks I would have said it 15 because it wasn't said. 16 Q She then says "I informed 17 Judge Gelbstein and Judge Vahdat again. 18 Judge Gelbstein went out to speak to 19 him." 20 Do you remember this 21 conversation? 22 A No. 23 Q She says that you verbally 24 attacked Judge Gelbstein and her cursing. 25 A No.</p>

<p style="text-align: right;">Page 394</p> <p>1 M.H. Capogrosso 2 Q Do you remember that? 3 A No. I would never curse a 4 judge. I would never curse a woman, 5 never. 6 Q So why is she lying? 7 A I don't know. Ask her. I 8 do admit that there was -- she was -- she 9 admits to leaving this paper clip. It's 10 absolutely ridiculous. Absolutely 11 ridiculous that your clerks -- this is 12 what clerks do. But do I give a damn 13 about a paper clip, no. 14 Q Can you explain to me why -- 15 like why is it ridiculous that they leave 16 a paper clip someplace? 17 A What's the purpose of 18 leaving a paper clip someplace? It 19 doesn't make -- for an attorney to use. 20 Why would I -- I don't know. I don't 21 understand the whole purpose of this 22 though. It's just nonsensical. 23 Q I guess my question is who 24 cares if they leave a paper clip 25 somewhere?</p>	<p style="text-align: right;">Page 396</p> <p>1 M.H. Capogrosso 2 connected to this complaint? 3 A I don't know. 4 Q But you think -- 5 A I could care less about a 6 paper clip. I think you got a bunch of 7 idiot clerks there who need to -- you 8 know, who didn't like me because I 9 wasn't, you know, like I said, giving 10 them money, giving them cash, giving them 11 presents, buying them breakfast. I was 12 there to do a job. I told you that 13 repeatedly.</p> <p>14 MR. THOMPSON: All right. 15 Ms. MacDonald, can we mark that 16 document as Exhibit 26? 17 (The above-referred-to 18 e-mail was marked as Exhibit 26 for 19 identification as of this date.)</p> <p>20 THE WITNESS: Listen, I got 21 27 minutes left. I hope you 22 understand that, Attorney Thompson. 23 MR. THOMPSON: Let's take a 24 quick break and go off the record 25 then and talk.</p>
<p style="text-align: right;">Page 395</p> <p>1 M.H. Capogrosso 2 A I don't care. That's the 3 whole deal, I don't care. I don't know 4 what this is about. I don't care. I 5 don't give a darn about a paper clip in a 6 courthouse. There's paper clips all over 7 the place. You got a bunch of idiot 8 clerks down there. I'm smirking at one 9 and now I'm complaining about a clip. 10 You got a bunch of idiot clerks. 11 Q Do you think that Ms. Piparo 12 wanted to get rid of you? 13 A I think -- I think all of 14 the clerks didn't like me. I told you, I 15 was there a long time. They were getting 16 gifts and money from all the other 17 attorneys and I was not getting involved 18 in this. 19 Now, nothing was said, but 20 the other attorneys told me that they 21 were giving the clerks money, cash, 22 buying them breakfast in the morning. 23 How many times do I have to say it to 24 you? 25 Q And you think that's</p>	<p style="text-align: right;">Page 397</p> <p>1 M.H. Capogrosso 2 THE WITNESS: Because it's a 3 seven hour day. 4 MR. VIDEOGRAPHER: Okay. So 5 the time is 4:03. We are off the 6 record. 7 (A short recess was taken.) 8 MR. VIDEOGRAPHER: The time 9 is 4:05. We are on the record. 10 Q And, Mr. Capogrosso, while 11 we were off the record we just had a 12 discussion about the timing of the 13 deposition and we agreed that we would go 14 until there's been a full seven hours on 15 the record; correct? 16 A Yes, which should take us to 17 5:23 if we don't take any breaks. 18 Q Good. 19 So, Mr. Capogrosso, I'm 20 going to show you a document. Do you 21 recognize this document? 22 A Yes. Well, I recognize the 23 name, Diantha. 24 Q Have you seen it before? 25 A Yes.</p>

<p style="text-align: right;">Page 398</p> <p>1 M.H. Capogrosso 2 Q And what is this document? 3 A Some complaint that Diantha 4 wrote about me and I'm saying the word 5 shit, which I wasn't. 6 Q And this document is Bates 7 stamped DMV-0000003; correct? 8 A Yes. 9 Q So Ms. Fuller says that 10 since she came back to practice at the 11 TVB in September 2014, you would say shit 12 whenever she passed by you -- 13 A No. 14 Q -- is that correct? 15 A No. I say eesha. I say 16 eesha. 17 Q You said what? 18 A Eesha, eesha. I was 19 practicing martial -- it's just something 20 I say to myself. I say it quietly, I say 21 it under my breath. It was never the 22 word shit. It was the word eesha, 23 E-E-S-H-A. I'm saying it for a long 24 time. It gets me motivated. 25 Q What --</p>	<p style="text-align: right;">Page 400</p> <p>1 M.H. Capogrosso 2 A Well, I didn't say -- 3 Q Do you recall that 4 conversation? 5 A I never said that word, no. 6 I never said the word. No, she's -- I 7 never said the word. I told you what I 8 said. 9 Q Do you recall the 10 conversation where she -- 11 A No. I do not. 12 Q -- objected to you saying 13 it? 14 A No. She's verbally -- 15 verbally swearing at me, that's not 16 appropriate. I say the word eesha and 17 I'm allowed to say it and I'll continue 18 saying it. There's nothing wrong with 19 it. It means something to me. 20 Now, if there was a problem 21 with that -- 22 Q Okay. 23 A -- you don't barrage me with 24 swear words. You say Mr. Capogrosso, 25 what are you saying, can you please tell</p>
<p style="text-align: right;">Page 399</p> <p>1 M.H. Capogrosso 2 A It's just something I say. 3 Q What does eesha mean? 4 A It just means something to 5 me. It keeps me motivated. It's under 6 my breath. It's very low. It was never 7 the word shit. It was never directed to 8 any person. I say it to myself. It 9 keeps me motivated. 10 There's no -- no prohibition 11 against speaking to yourself. It's said 12 quietly. It keeps me motivated. It 13 means something to me. I'm allowed to 14 say it. If there was a problem with it, 15 all you had to do was tell me once, I 16 would never say it again, but it was not 17 the word shit and it was not directed to 18 her. 19 Q So, in fact, she says that 20 she did say it was a problem. She says 21 that on March 13, 2015 you passed by her 22 and said shit to her and she responded -- 23 and she responded saying that you were 24 crazy and that she was sick of you saying 25 shit to her.</p>	<p style="text-align: right;">Page 401</p> <p>1 M.H. Capogrosso 2 me and if I -- and I would explain it to 3 her. 4 Q And did you -- 5 A She didn't do that. She 6 didn't do that. What she did was a 7 barrage of swear words, telling me I'm 8 psycho and crazy. 9 Now, I'm allowed to say the 10 word because you are allowed. It's 11 called freedom of speech. 12 Q And when you said eesha, 13 what does eesha mean to you? 14 A It means something to me. 15 Q What does it mean to you? 16 A It just means something to 17 me. It keeps me motivated. 18 Q Okay. But you're saying it 19 means something and I'm asking you what 20 it means. 21 A It's just a little something 22 I say. 23 Q And what is the meaning of 24 the little something that you say? 25 A It's a motivational phrase</p>

<p style="text-align: right;">Page 402</p> <p>1 M.H. Capogrosso 2 that I say to myself. I've been saying 3 it forever. 4 Q Where does it come from? 5 A It just comes from where it 6 comes from. I don't know where it comes 7 from. It just comes. 8 Q It's just a thing that you 9 say for no reason at all? 10 A It's a thing I say that 11 keeps me motivated, yes. 12 Q And you would say it 13 whenever you walked by Ms. Fuller? 14 A No. I would say it when I 15 was feeling kind of tired or a little -- 16 a little fatigued because it's a 17 fatiguing day down there. It wasn't -- 18 Q And you said -- 19 A It was before anybody. I 20 would just be -- you know, I had a hard 21 day, I'd just keep moving and it just 22 keeping me motivated. 23 Q And you see more that this 24 is signed by Mr. Tahir as well; correct? 25 A Yeah. I'll tell you where I</p>	<p style="text-align: right;">Page 404</p> <p>1 M.H. Capogrosso 2 and I know you don't think it is, but if 3 you were saying shit to another attorney 4 every time you walked past her, would 5 that justify your exclusion from the TVB? 6 A I'm not going to -- I'm not 7 going to get into hypotheticals. I don't 8 know. I didn't -- first of all, I didn't 9 say the word shit. Ask me what I said. 10 Don't swear at me with a barrage of swear 11 words and tell me I'm a psycho. Just 12 talk to me and -- 13 Q And you -- 14 A -- I'll tell her. Like I 15 told you, I would tell her. 16 Q You had been warned by -- 17 A I told you. Like I told 18 you, I would tell her. 19 Q Mr. Capogrosso, you had been 20 warned by the DMV that verbal abuse could 21 get you expelled; correct? 22 A There was no verbal abuse 23 here, I'm sorry, there wasn't. 24 Q I know you don't think so, 25 but the question is had you been warned</p>
<p style="text-align: right;">Page 403</p> <p>1 M.H. Capogrosso 2 got it from. I was training in a martial 3 arts gym a long time ago when I was a 4 younger guy and the instructor used to 5 say it all the time that I was training 6 with me at the time and it kept us 7 motivated throughout the course 8 seriously. 9 So I'm not going to give you 10 his name, a man I trained with at the 11 time, but it was in a gym and he would 12 say it to keep us -- and after that, you 13 know, we were -- I picked up on it. 14 Does it have anything to do 15 with shit or talking to this woman who's 16 calling me a psycho and swearing at me, 17 no. It's something I picked up in a 18 martial art gym a long time ago when I 19 was training and he would say it. I 20 never questioned him what it meant, but 21 it kept us going. 22 So that's where I picked it 23 up from, but it was not the word shit and 24 it wasn't directed to anybody. 25 Q If this behavior were true,</p>	<p style="text-align: right;">Page 405</p> <p>1 M.H. Capogrosso 2 before that verbal abuse could get you 3 expelled? 4 A I saw the letter to that 5 effect. There was no verbal abuse. 6 Q So were you worried after 7 this complaint from Ms. Fuller and 8 Mr. Tahir and this incident with 9 Ms. Fuller that you would be expelled 10 from the TVB? 11 A No, because there was no 12 verbal abuse. It's called freedom of 13 expression. There was no verbal abuse -- 14 Q So were -- 15 A -- so stop making -- there 16 was no verbal abuse. 17 Q Were you worried that this 18 incident would lead to your expulsion? 19 A I'm allowed -- you know, 20 people pray all day. They say various 21 prayers. I'm down at the DMV, there's 22 guys praying. They're allowed to pray. 23 I'm allowed to say a word to myself 24 quietly under my breath. There was no 25 verbal abuse.</p>

<p style="text-align: right;">Page 406</p> <p>1 M.H. Capogrosso 2 Q I understand, 3 Mr. Capogrosso, but that wasn't the 4 question. The question is were you 5 worried that this incident would lead 6 to -- 7 A No. 8 Q -- the TVB to expel you? 9 A No. I was not worried 10 because I did not verbally abuse anybody. 11 I was not worried. I did not verbally 12 abuse.</p> <p>13 I'm not going to be told I 14 can't say a word under my breath that was 15 not the word shit and not directed to 16 anybody.</p> <p>17 Q So I'll just note that the 18 letter that you sent to AAG 19 Prickett-Morgan was sent the very next 20 day after this letter.</p> <p>21 Did you send that letter 22 because you were worried the DMV was 23 going to take action against you?</p> <p>24 A No. I was worried because 25 the action with Smart. I didn't even</p>	<p style="text-align: right;">Page 408</p> <p>1 M.H. Capogrosso 2 Q Mr. Capogrosso, I'm going to 3 bring up another letter here. Do you 4 recognize this letter? 5 A Absolutely. That's the 6 letter that went to your office that got 7 lost in the mailroom for four weeks. 8 Q Did you send this letter? 9 A Yeah, I did. 10 Q And this is marked P-41 in 11 your production; correct? 12 A Yes. 13 MR. THOMPSON: And, 14 Ms. MacDonald, let me ask that this 15 letter be marked as Exhibit 28. 16 (The above-referred-to 17 letter was marked as Exhibit 28 for 18 identification as of this date.) 19 Q Mr. Capogrosso, you said 20 this was lost in our mailroom. Can you 21 explain what you mean by that? 22 A I sent it on March 20. I 23 called a couple of days later to see if 24 you received it. They didn't receive it. 25 I called again. A week later they told</p>
<p style="text-align: right;">Page 407</p> <p>1 M.H. Capogrosso 2 realize that -- the action with Smart is 3 what I was more concerned about. 4 Now, listen, this, what do 5 you call it, Diantha, she's assaulted me 6 with a barrage and she admits to it, a 7 barrage of verbal abuse and obscenities. 8 She's yelling at me, cursing me out, 9 calling me a psycho. If that's not 10 verbal abuse, I don't know what it is. 11 So she's verbally abusing me 12 and she gets a pass. She's not -- she's 13 not thrown out. That's accepted, right. 14 She's verbally abusing me, calling me a 15 psycho and this and that. 16 I used the word eesha, not 17 the word shit. That's not verbal abuse. 18 MR. THOMPSON: So, 19 Ms. MacDonald, if we didn't already, 20 let's mark that letter from 21 Ms. Fuller and Mr. Tahir as Exhibit 22 27. 23 (The above-referred-to memo 24 was marked as Exhibit 27 for 25 identification as of this date.)</p>	<p style="text-align: right;">Page 409</p> <p>1 M.H. Capogrosso 2 me it was lost in the mailroom. I called 3 again. They said they still couldn't 4 find it in the mailroom. 5 About three or four weeks 6 later after I called, eventually it was 7 found. I don't know how that happened. 8 I guess your office didn't want to 9 receive it, but that's what happened. 10 Q So, Mr. Capogrosso, who is 11 Elizabeth Prickett-Morgan? 12 A She's the Attorney General 13 of New York State. 14 Q I'm pretty sure she's an 15 Assistant Attorney General. 16 A I thought she was the 17 Attorney General. She's an Assistant, 18 right. Letitia James, right. 19 Q So why would you send a 20 letter to her? 21 A Because I complained to 22 Judge Gelbstein and when I complained to 23 Judge Gelbstein, he laughs and giggles 24 and tells me a spade is a spade. I'm not 25 getting relief about the harassment of</p>

<p style="text-align: right;">Page 410</p> <p>1 M.H. Capogrosso 2 Smart, the constant harassment by Smart 3 and I don't want an incident on this 4 floor and I'm seeing what's happening. 5 This guy, Smart, is provoking me into a 6 fight. He gets in my face. What's the 7 problem? Fuck you, you're the problem. 8 Because I complained about him stealing 9 \$80 and a fee and he's allowed to remain 10 by Gelbstein. Vahdat's not --</p> <p>11 Q So -- 12 A Go ahead. Vahdat's not 13 listening to me.</p> <p>14 Q Mr. Capogrosso, was 15 Ms. Elizabeth Prickett-Morgan part of 16 DMV?</p> <p>17 A I said let me call -- let me 18 write a letter to the Attorney General's 19 office, that's all I said to myself. I 20 think that was the correspondence address 21 when I looked you up on the website.</p> <p>22 Q So -- and so did you file 23 this believing that Elizabeth 24 Prickett-Morgan was the Attorney General 25 of New York State?</p>	<p style="text-align: right;">Page 412</p> <p>1 M.H. Capogrosso 2 abusing me is acceptable or using swear 3 words is acceptable or calling me a 4 psycho, Diantha Fuller, which is 5 acceptable. 6 So I don't want an incident. 7 The basis of this letter is this, I don't 8 want another incident at the TVB. I 9 don't want anything to happen to me, 10 right. I don't want an incident. 11 You gave me this letter. No 12 verbal abuse, threatening physical 13 conduct. I'm trying to be, you know, a 14 perfect gentleman, which is what I was, 15 right. I'm trying to do the right thing. 16 I'm trying to be a perfect gentleman, 17 handle my cases, do what I have to do. 18 I'm seeking relief here. 19 Gelbstein, when I complain about Smart, 20 he laughs and giggles and tells me a 21 spade is a spade. So let me call the 22 Attorney General's office who sent me 23 this letter, who represented me in the 24 Article 78, who gave me all these 25 conditions and tell her what's going on</p>
<p style="text-align: right;">Page 411</p> <p>1 M.H. Capogrosso 2 A I filed it with the Attorney 3 General of New York State and when I 4 looked you up on the website, that was 5 the correspondence address that I found 6 to correspond with. 7 Q So -- 8 A I looked you up to send it 9 in and they put her name there, so that's 10 the one I used. 11 Q So what's, you know, what's 12 the connection between the Attorney 13 General's office and DMV? 14 A The Attorney General's 15 office represented DMV in my Article 78 16 proceeding, right. 17 Q But hadn't -- 18 A They're the lawyers. 19 Q Hadn't the Article 78 20 proceeding been over for three years by 21 this point? 22 A Yeah, but they're the ones 23 who put all these conditions on me, right, 24 and I had to act in a certain way, right, 25 even though other attorneys were verbal</p>	<p style="text-align: right;">Page 413</p> <p>1 M.H. Capogrosso 2 down here. 3 Q But Elizabeth 4 Prickett-Morgan -- 5 A And your office does not 6 seem to care. They lose it in their 7 mailroom. They lose it they eventually 8 find it. They don't respond to it. They 9 don't give me any response to it and 10 Smart approaches me in the morning on 11 May 11. 12 Q Elizabeth Prickett-Morgan 13 didn't represent DMV in your case; did 14 she? 15 A I don't know. You would 16 have to talk to my attorney, Chris 17 McDonough, on this. I don't know who 18 did. 19 When I looked you up on 20 the -- on Google for a correspondence 21 address, Prickett-Morgan's name was 22 attached to it. That's why I wrote that. 23 Q Did you speak with an 24 attorney about filing this letter? 25 A No.</p>

<p style="text-align: right;">Page 414</p> <p>1 M.H. Capogrosso 2 Q Did you speak with 3 Mr. McDonough? 4 A No. Chris did tell me if 5 you sneeze the wrong way, they're going 6 to throw you out again. 7 Q So I guess my question is 8 you wrote this letter to the office that 9 represented DMV in the case three years 10 ago to an attorney who wasn't even on the 11 case. 12 Why do you think anyone 13 would care about this letter? 14 A I'll say it again, the 15 Article 78 you gave me all these 16 conditions, right, in that letter, that 17 was from your office, no verbal abuse, no 18 threatening of physical contact or 19 conduct, right. That was from your 20 office, right, from your office, the 21 Attorney General's office. I did not 22 deal with the Attorney General's office. 23 Chris McDonough dealt with the Attorney 24 General's office. 25 I'm trying to adhere to all</p>	<p style="text-align: right;">Page 416</p> <p>1 M.H. Capogrosso 2 A I said this guy Smart 3 wouldn't stop. I went into detail with 4 it and Gelbstein's giving me no 5 protection. He's not telling this guy -- 6 or he's incapable, incompetent or 7 complicit, I state that. Smart will get 8 in my face, what's the problem? Fuck 9 you, you're the problem. He gives me the 10 sign of the cross and a spear hand. He 11 bumps into me. 12 Q And were you worried that 13 this incident -- 14 A Then the incident happens. 15 On May 11 this guys comes again. He 16 comes, he gets in my face again. I put 17 up my hand. I tell him to back up. 18 Q Let me ask you, 19 Mr. Capogrosso, when you wrote this 20 letter were you worried that this 21 incident would be used to justify your 22 expulsion from the TVB? 23 A Would I -- I saw something 24 coming. I saw something coming. This 25 guy Smart didn't want to stop. I don't</p>
<p style="text-align: right;">Page 415</p> <p>1 M.H. Capogrosso 2 of these rules and regulations 3 specifically put on me, on me, that I had 4 to deal with now and I'm getting all this 5 harassment by Smart because I reported a 6 theft. I go to Gelbstein. Gelbstein 7 doesn't want to hear it. He laughs and 8 giggles, tells me a spade is a spade 9 concerning Smart. 10 Who else do you want me 11 writing to? If I'm supposed to adhere to 12 the conditions that you put on me, the 13 Attorney General's office, I got to go to 14 the Attorney General's office, say how do 15 I -- what do I do in this situation? 16 I can't adhere if I've got a 17 security guard who doesn't want to leave 18 me alone. 19 Q So, Mr. Capogrosso, you 20 testify a moment ago that you wrote this 21 letter because you were worried that 22 there would be an incident? 23 A Absolutely. 24 Q Can you tell me what you 25 mean by that?</p>	<p style="text-align: right;">Page 417</p> <p>1 M.H. Capogrosso 2 know if Gelbstein -- I think Gelbstein 3 was putting him up to it. I really 4 believe Gelbstein was putting -- 5 Gelbstein wanted me out. I really think 6 Gelbstein wanted me out of here and -- 7 Q And that's -- 8 A -- I think Gelbstein put 9 Smart up to it, I really do believe that, 10 because he didn't look at the videotape. 11 On the morning of May 11, he was 12 conveniently not in the DMV, just not 13 there. He was not in the TVB, in the 14 Brooklyn TVB conveniently. 15 I think he put this guy 16 Smart up to it. He wanted me out and I 17 saw it coming and I'm seeking -- 18 Q Is that part -- 19 A -- relief. I'm seeking 20 relief. I'm seeking for somebody to 21 allow me just to practice law like every 22 other lawyer. 23 Q And is that part of why you 24 wrote the letter? 25 A I'm seeking relief from your</p>

<p>1 M.H. Capogrosso 2 office.</p> <p>3 Q Yes. So I understand, but 4 the question is you believe that Judge 5 Gelbstein was trying to get rid of you 6 through David Smart, was that why you 7 wrote this letter?</p> <p>8 A I want to practice law down 9 in Brooklyn TVB. I was a good lawyer 10 down there. I'm seeking relief.</p> <p>11 Q I understand that.</p> <p>12 A I don't know -- I don't know 13 if Gelbstein put this guy Smart up to it. 14 I don't know, but he --</p> <p>15 Q Did you suspect it at this 16 time?</p> <p>17 A What's that?</p> <p>18 Q Did you suspect at this time 19 that Judge Gelbstein was putting him up 20 to it?</p> <p>21 A I think Gelbstein is as 22 corrupt as they come, my personal opinion 23 and I told you the reasons why. When 24 you -- when you complain to a judge and 25 that judge laughs and giggles and tells</p>	<p>Page 418</p> <p>1 M.H. Capogrosso 2 your question. I used it because I did 3 not want an incident. I did not --</p> <p>4 Q So Mr. Capogrosso --</p> <p>5 A I did not want an incident.</p> <p>6 Q Can I ask you to answer the 7 question with a yes or a no, did you 8 write this letter, in whole or in part, 9 because you believed Judge Gelbstein was 10 trying to get you expelled?</p> <p>11 A I wrote it because I did not 12 want an incident. That's why I wrote it.</p> <p>13 Q Okay. But can I ask you to 14 answer the question yes or no?</p> <p>15 A That is the question. No 16 there's no -- that's the reason I wrote 17 it.</p> <p>18 Q So yes -- and, again, it's a 19 simple question, yes or no, was part of 20 the reason you wrote this because you 21 thought Judge Gelbstein was going to get 22 you expelled?</p> <p>23 A I wrote it because I didn't 24 want an incident on the floor. That's 25 why I wrote it.</p>
<p>1 M.H. Capogrosso 2 you a spade is a spade, I think he's 3 corrupt and doesn't deserve to hold the 4 office.</p> <p>5 No matter who's protecting 6 him, I think he's corrupt and doesn't 7 deserve to hold that office. He should 8 have stopped the behavior.</p> <p>9 Q So the question is --</p> <p>10 A Gelbstein should have 11 stopped this behavior and he didn't do 12 it.</p> <p>13 Q So the question, 14 Mr. Capogrosso, is when you wrote this 15 letter, were you -- did you do it because 16 you were worried that Judge Gelbstein was 17 going to use David Smart to get you 18 expelled?</p> <p>19 A I used it to stop the 20 harassment. I didn't want an incident. 21 I spelled it out very clearly. I did 22 not --</p> <p>23 Q Mr. Capogrosso, I understand 24 that.</p> <p>25 A I answered it. I answered</p>	<p>Page 419</p> <p>1 M.H. Capogrosso 2 Q Mr. Capogrosso, is there 3 anything stopping you from giving a yes 4 or no answer to this question?</p> <p>5 A No. That's the reason I 6 wrote it. You're asking me why I wrote 7 it. That's the reason. That's the only 8 reason I wrote it. I did not want to get 9 expelled. I didn't want an incident. I 10 don't want to get thrown out. I wanted 11 to stay working. I wanted to make a 12 living. I wanted to pay bills.</p> <p>13 Q And so is the answer yes, 14 you believed that there was going to be 15 an incident Judge Gelbstein was going to 16 use to expel you?</p> <p>17 A I saw this guy Smart was not 18 backing off. He was still with the 19 harassment. I saw it. He didn't want to 20 stop.</p> <p>21 Q Mr. Capogrosso --</p> <p>22 A I answered your question. I 23 wrote it because I -- I wrote -- I gave 24 you the reasons why, I did not want an 25 incident on this floor.</p>

<p>1 M.H. Capogrosso 2 That's the last time I'm 3 going to answer this question. 4 Q Well, Mr. Capogrosso, I'm 5 going to ask you again one more time to 6 please answer with a yes or a no. When 7 you wrote this letter, were you worried 8 that Judge Gelbstein was going to cause 9 an incident to get you expelled? 10 A I was worried that there 11 would be an incident on the floor. 12 That's what I was worried about. 13 Q But you didn't know if it 14 would be something Judge Gelbstein would 15 cause? 16 A Listen, I just didn't want 17 an incident, that's it. I saw 18 Gelbstein -- 19 Q So why is it -- but why is 20 it so hard to get a yes or a no out of 21 you, Mr. Capogrosso? 22 A I told you, I've given you 23 the reason I wrote this letter. I didn't 24 want an incident on the floor. I did not 25 want it. I wanted to work.</p>	<p>Page 422</p> <p>1 M.H. Capogrosso 2 believed that, when he approached me on 3 the afternoon of May 8. On the afternoon 4 of May 8 -- 5 Q I'm not asking about that. 6 A Well, on -- 7 Q I'm asking you about -- 8 A Well, on that date when he 9 told me can't you go practice somewhere 10 else, I saw what you wrote about me, I'm 11 implicit, incapable and incompetent, I 12 believe he wanted me out. At that point 13 in time, yes. 14 And when I wrote this 15 letter, all I wanted was for the 16 harassment to stop, but when he 17 approached me on May 8 and told me can't 18 you go practice someplace else and then 19 on May 11 Smart approaches me, yes, then 20 I knew he wanted me out. 21 Q I'm not asking about that. 22 I'm asking about now when you wrote this 23 letter. 24 A When I wrote this letter, I 25 just wanted the harassment to stop for</p>
<p>1 M.H. Capogrosso 2 Q Okay, but that again is not 3 the question. Why can't you answer -- 4 A No. 5 Q -- with a yes or a no? 6 A I'm going to object right 7 now. You're badgering. I gave you the 8 reason I wrote this letter. 9 Q All right. 10 A You're badgering me. You've 11 asked it seven times, eight times. I 12 gave you my answer. I did not want an 13 incident. I'm begging for relief. I 14 want to work. I want to pay bills. I 15 want to make my clients happy. 16 Q You can object, but I just 17 want to put on the record my question is 18 yes or no, did you believe that when you 19 wrote this letter that Judge Gelbstein 20 was trying to manufacture an incident to 21 get you expelled and you're not willing 22 to answer that yes or no question; is 23 that correct? 24 A Well, I truly believe 25 that -- I'll tell you when I truly</p>	<p>Page 423</p> <p>1 M.H. Capogrosso 2 the tenth time. 3 Q So can you give me a yes or 4 a no answer to the question? 5 A I don't recall what I 6 thought. I wanted the harassment just to 7 stop, that's what I wanted. I wanted to 8 work. I didn't want defendant Gelbstein 9 to laugh and giggle at me and tell me a 10 spade is a spade. I did not want that. 11 Q All right. 12 A I wanted to stop the 13 harassment. 14 Q You've once again refused to 15 answer yes or no and I'm just going to 16 let you know and I'm going to put on the 17 record that we are going to go back and 18 we are going to have to consider whether 19 to file a motion to compel. 20 In the meantime, let's move 21 on. 22 MS. REPORTER: You know 23 what, if you still have an hour left, 24 I need a five minute break. I'm at 25 350 pages --</p>

<p style="text-align: right;">Page 426</p> <p>1 M.H. Capogrosso 2 MR. THOMPSON: Ms. 3 MacDonald -- 4 MS. REPORTER: Yes. Let's 5 take a five minute break. 6 MR. THOMPSON: Sure. That's 7 fine. We'll be back at 4:33. 8 MR. VIDEOGRAPHER: The time 9 is 4:28. We are off the record. 10 (A short recess was taken.) 11 MR. VIDEOGRAPHER: The time 12 is 4:33. We are on the record. 13 Q Mr. Capogrosso, you still 14 see that we have Exhibit 28 up? 15 A Yes. 16 MR. THOMPSON: And, 17 Ms. MacDonald, in case we didn't mark 18 it as Exhibit 28, let's please do 19 that. 20 Q You write in this letter 21 that upon completion of the anger 22 management course you were allowed to 23 practice law in all DMV courts on an 24 equal and unbiased standing with all 25 other attorneys in the DMV; is that</p>	<p style="text-align: right;">Page 428</p> <p>1 M.H. Capogrosso 2 would lead to an expulsion? 3 A Well, I don't know why they 4 threw that letter to me. Like I said, 5 they threw it at me two days before I was 6 to go back to the DMV. I agreed to 7 nothing but to take an anger management 8 course, that's it. 9 Q Well, once again -- 10 A I took the course. I should 11 be treated like every other lawyer, not 12 on a special, you know, special -- I 13 should be treated like every other 14 lawyer. That's all I agreed to was take 15 a course. 16 I wouldn't have agreed to 17 anything else if I knew this letter was 18 going to be thrown at me. 19 Q Mr. Capogrosso, you write 20 that "On numerous occasions your security 21 guard Dave Sparks told me to go F 22 myself." 23 A I didn't know his name at 24 that point. It's Smart, not Sparks. I 25 didn't know his last name.</p>
<p style="text-align: right;">Page 427</p> <p>1 M.H. Capogrosso 2 correct? 3 A That was my assumption, yes. 4 Q You say it was your 5 assumption. What do you mean by that? 6 A I'm a lawyer. I'm licensed 7 in the State of New York. I should be 8 treated like every other lawyer. I see 9 no reason why I shouldn't be. I should 10 be held to the same standard as every 11 other lawyer practicing, no different. I 12 took my course that I needed to take. I 13 should be held on the same standard as 14 every other lawyer. 15 Q But, in fact, you weren't 16 quite on the same standing because you 17 had been warned that any further incident 18 would lead to your expulsion; isn't that 19 true? 20 A Well, that was an improper 21 warning in my opinion. I should be 22 treated like any other lawyer, any other 23 lawyer. 24 Q So why was it improper for 25 DMV to warn you that further incidents</p>	<p style="text-align: right;">Page 429</p> <p>1 M.H. Capogrosso 2 Q How did you not know his 3 last name at this point? 4 A I didn't know it. 5 Q You had been interacting 6 with him for years you said. 7 A We all knew him by David. I 8 never talked to him about his last name. 9 I know people said S Smart something or 10 Smarks or something. I thought it was 11 Sparks. 12 I knew him -- I knew him as 13 the security guard, that's it. I know 14 his first name was David. 15 Q When you -- 16 A That's what I knew. 17 Q When you write, 18 Mr. Capogrosso, when you write "Will 19 provide proof upon request," what proof 20 would you have provided? 21 A I sent you all my letters, 22 all my -- all the complaints I filed with 23 Gelbstein. 24 Q So the proof would have been 25 your own letters to Judge Gelbstein?</p>

<p style="text-align: right;">Page 430</p> <p>1 M.H. Capogrosso 2 A Yes and my testimony. The 3 fact that there was a video -- 4 Q Okay. 5 A That I stated to Gelbstein 6 the man pushed me from behind in June of 7 2012. They stole money from me. 8 Q And the same question for 9 item number 2 when you talk about 10 instances where Sparks redirected other 11 clients who had come looking for you to 12 other attorneys or interfered with his 13 conversations, the proof there would have 14 been your statements as well? 15 A Yeah. I had an affidavit I 16 filed with -- I think I sent it to you 17 also, yes and I saw him doing it. 18 Q So here on page 2 you see 19 and I'm going to highlight your 20 statement. 21 A Yeah. Go ahead. 22 Q "I've made numerous 23 complaints to Judge Gelbstein. His 24 response has been a spade is a spade. 25 His words not mine. He laughs and</p>	<p style="text-align: right;">Page 432</p> <p>1 M.H. Capogrosso 2 deposition, but that's what he said to me 3 this man. 4 Q So what can you tell me 5 about the conversation in which he made 6 that statement allegedly? 7 A I said can you tell this guy 8 to leave me alone, Smart and now I know 9 his name is David. Now I know his name 10 is Smart. I don't want an incident on 11 this floor. I don't want anything to 12 happen. I want to practice law. I want 13 to make money. I want to make my clients 14 happy. I said can't you stop Smart from 15 doing this. And three inches from my 16 face what's the problem? Fuck you, 17 you're the problem. He laughs and 18 giggles at me and tells me a spade is a 19 spade. 20 Q So when was this -- 21 A It happened outside of his 22 chamber door one day. He's walking, I 23 said judge, I got to talk to you for a 24 minute. This guy doesn't want to stop. 25 Can you tell him to leave me alone? What</p>
<p style="text-align: right;">Page 431</p> <p>1 M.H. Capogrosso 2 giggles." 3 A That's true. That's 4 absolutely a true statement, absolutely 5 true. 6 Q Well, he denied it 7 yesterday; didn't he? 8 A It's an absolutely true 9 statement. He took no action in response 10 to these. He knew what I had to go 11 through back in 2011 with Yaakov Brody 12 and that incident. 13 Q Mr. Capogrosso, that's not 14 the question. 15 A He took no action -- 16 Q The question -- 17 A -- to respond to this. 18 Q Sir, the question is he 19 denies it; correct? 20 A I don't know if he denied 21 it. That an absolutely true statement. 22 That's what he said to me. 23 Q Were you not at the 24 deposition yesterday when he denied it? 25 A I'm sure he denied it at the</p>	<p style="text-align: right;">Page 433</p> <p>1 M.H. Capogrosso 2 else do I need to do as a lawyer to tell 3 a judge to have a security guard leave a 4 hard working attorney alone and all he 5 does this judge is laugh and giggle at me 6 and tell me a spade is a spade. 7 Q So, Mr. Capogrosso, when was 8 this conversation in which he said this? 9 A Right before I wrote this 10 letter. After he said that to me, I said 11 I had enough. I said I had enough with 12 this guy. Not only is he having lunch 13 with ticket brokers, pleading people 14 guilty, telling me he doesn't know what 15 these ticket brokers do for a living, now 16 he's telling me a spade is a spade and he 17 laughs and giggles. 18 This guy should not be on 19 the bench. 20 Q And so it's your testimony 21 that he said this shortly before you 22 filed the letter? 23 A Absolutely. When he said 24 that to me, I said that's enough. I got 25 to get --</p>

<p style="text-align: right;">Page 434</p> <p>1 M.H. Capogrosso 2 Q So you -- 3 A I have no protection down 4 here from this judge whatsoever, none. 5 Q So in March of 2015? 6 A Yeah. That's when he said 7 it to me. I wrote the letter. I'm 8 seeking relief. I don't want an incident 9 on this floor. Maybe your office could 10 help me.</p> <p>11 What your office does is 12 they lose the -- they lose it in the 13 mailroom.</p> <p>14 Q And what is -- what do you 15 think a spade is a spade means?</p> <p>16 A Mr. Smart's a black man. 17 What I believe is that this Judge 18 Gelbstein is as prejudiced and biased as 19 they come because that's what he said to 20 me and Mr. --</p> <p>21 Q And what's your basis for 22 that belief?</p> <p>23 A Mr. Smart is a black man and 24 he was making fun of Mr. Smart's, um, 25 Mr. Smart. He's making fun of Mr. Smart.</p>	<p style="text-align: right;">Page 436</p> <p>1 M.H. Capogrosso 2 doesn't want to stop with the harassment. 3 Q Can I ask, what is a spear 4 hand? 5 A (Indicating). It's 6 something that can be very deadly. It's 7 a straight right hand like this 8 (indicating). Pointed right at somebody, 9 you can actually take a guy's eye out 10 with it if you do it right.</p> <p>11 Q Can you make a spear hand 12 and poke somebody's eye out?</p> <p>13 A Oh, absolutely. Would I, 14 no. Could I, yes, if I had to. If I 15 had, there's a guy with a knife or a gun 16 at me, absolutely. Coming at me with a 17 knife, absolutely I would do it in a 18 heartbeat.</p> <p>19 Q And --</p> <p>20 A I do whatever I can to avoid 21 that situation.</p> <p>22 Q And does Mr. Smart practice 23 any martial art that uses a spear hand to 24 your knowledge?</p> <p>25 A I have no idea. I'm telling</p>
<p style="text-align: right;">Page 435</p> <p>1 M.H. Capogrosso 2 Now, I've dealt with all 3 types of clients down there, all types of 4 clients, all different nationalities, 5 races. Not one, not one client made a 6 complaint against me that I made an 7 offensive or anti-Semitic or racist 8 remark.</p> <p>9 But this judge, if you want 10 to call him a judge, Gelbstein, laughs 11 and giggles and tells me a spade is a 12 spade.</p> <p>13 Q Do you think he could have 14 been talking about you when he said a 15 spade is a spade?</p> <p>16 A Absolutely not. I'm 17 complaining about Smart and he laughs and 18 giggles. Why would he call me a spade? 19 Why would he call me a spade?</p> <p>20 Q I don't know. You tell me.</p> <p>21 A I don't know why. I'm 22 talking about Smart at this point. I'm 23 complaining to him about Smart, that he 24 gave me the sign of a cross and a spear 25 hand and now he's getting -- and now he</p>	<p style="text-align: right;">Page 437</p> <p>1 M.H. Capogrosso 2 you what he did. He directed his hand 3 directly at me like this (indicating), 4 stood up and gave me the sign of a cross.</p> <p>5 Q So let me ask you, if you 6 were raising -- if you had all these 7 concerns about Judge Gelbstein, you know, 8 Tanya Rabinovich having lunch with Jewish 9 ticket brokers, adjourning cases, 10 entering guilty pleas, why didn't you put 11 any of that stuff in this letter?</p> <p>12 A In this letter?</p> <p>13 Q Yes.</p> <p>14 A I only cared about me and 15 working, seriously. You know, how you 16 make your living, I don't care what you 17 do. I don't get involved in other 18 people's businesses, I really don't. You 19 want to be a corrupt judge, be a corrupt 20 judge. You want to be a taxicab driver, 21 be a taxicab driver, God bless. You want 22 to be a -- you want to work at a strip 23 club as a stripper, be a stripper. I 24 don't care. You want to be a lawyer, be 25 a lawyer, but be straight.</p>

<p style="text-align: right;">Page 438</p> <p>1 M.H. Capogrosso 2 I care about me and making 3 my living. If you want to be a corrupt 4 judge, be a corrupt judge. I don't want 5 to get involved with it. I just want to 6 do -- 7 Q So I understand that -- 8 A I want to do my job. 9 Q -- but the question is if 10 you were complaining about Judge 11 Gelbstein, why not include that in this 12 letter? 13 A Because I cared about me, me 14 keeping my job. That's what I cared 15 about, for me to keep -- I don't care 16 what Judge Gelbstein does. If he wants 17 to make his living -- make a living on 18 the side working with ticket brokers, go 19 right ahead and do it. I could care 20 less. Do what you want to do. You want 21 to be a corrupt judge -- 22 Q Were you -- 23 A -- be a corrupt judge. What 24 I care about -- 25 Q Were you worried that you</p>	<p style="text-align: right;">Page 440</p> <p>1 M.H. Capogrosso 2 that action would be. What did you 3 expect Ms. Prickett-Morgan to do? 4 A I don't know. How about 5 respond to the letter? I was told to go 6 back to the DMV, I was allowed to, right. 7 I didn't expect to have all this 8 harassment thrown at me when I went back, 9 I did not. 10 We entered into a 11 stipulation agreement, right. I was 12 allowed to go back. Well, give me the 13 chance to practice law, practice it 14 properly without the harassment. Live up 15 to your side of the bargain. You allowed 16 me back. I took an anger management 17 course. I hired a lawyer. It cost me 18 \$10,000 in total. 19 I did my part of the story. 20 Live up to your part. Put an end to this 21 harassment so I can make my living down 22 there and your office lost my complaint 23 in your mailroom for about three to four 24 weeks. 25 Q Was it our job --</p>
<p style="text-align: right;">Page 439</p> <p>1 M.H. Capogrosso 2 would lose your job? 3 A I was worried about that I 4 wasn't -- that there was going to be an 5 incident on that floor with this guy 6 Smart and I wanted to keep working and 7 paying bills and representing my clients. 8 Q Let me ask you, you write 9 "I" -- you write "I do not seek to 10 litigate, but I will if I have to." What 11 lawsuit would you have filed? 12 A This one. I don't want to 13 get thrown out again. I don't want to 14 leave. I don't want to leave the 15 Brooklyn TVB. I don't want to. I want 16 to work. I want the harassment to stop. 17 I don't want Gelbstein to laugh and 18 giggle at me. I want him to put an end 19 to it. 20 I want your office to maybe 21 put an end to it so I can get up in the 22 morning and go make a living. 23 Q And you write "Please take 24 any and all action to expedite and 25 resolve issues," but you don't say what</p>	<p style="text-align: right;">Page 441</p> <p>1 M.H. Capogrosso 2 A Live up to your part. 3 Q Was it our office's job to 4 take care of your complaint? 5 A Listen, no -- I don't know. 6 You tell me. You're the Attorney 7 General. 8 Q No is what I would tell you. 9 A All right. Fine. 10 Q This is -- 11 A Fine. So you sent the 12 complaint back to Gelbstein, nobody wants 13 to hear it, so I have no relief. There's 14 no relief being afforded to me. I got a 15 judge who laughs and giggles. The 16 Attorney General doesn't want to get 17 involved, doesn't even respond to it, to 18 my letter. She could have responded and 19 said this is not our job, it's not. 20 I make complaints. I called 21 the grievance. Nobody wants to listen. 22 That's what I did. 23 You don't want to respond to 24 the letter, don't respond. It's not your 25 job, it's not your job. You don't want</p>

<p style="text-align: right;">Page 442</p> <p>1 M.H. Capogrosso 2 to control the actions of the DMV, you 3 don't have any control over it, fine. 4 Q Mr. Capogrosso, you 5 represented in your complaint and in your 6 interrogatory responses that later on 7 Judge Gelbstein mentioned this letter to 8 you; is that correct? 9 A Absolutely, May 8. May 8. 10 Q And can you tell me what 11 happened? 12 A He approaches me in the 13 presence of Danielle Calvo. I think 14 Calvo was there. He said can't you go -- 15 can't you go practice somewhere else? I 16 saw what you wrote about me, I'm 17 complicit, incapable and incompetent. 18 May 8, Friday afternoon. 19 May 11, he's conveniently 20 not in the Brooklyn TVB. 21 Q And he just came up and said 22 that out of nowhere? 23 A I -- yeah. He walks -- he 24 walks up to me. He says can't you go 25 practice someplace else? I saw what you</p>	<p style="text-align: right;">Page 444</p> <p>1 M.H. Capogrosso 2 That's what he said to me. That's what 3 the man said to me on May 8. 4 On May 11 he's not in the 5 DMV. Smart approaches me, creates this 6 incident. He loses the videotape, 7 doesn't keep it. Calvo doesn't even view 8 the videotape. 9 Q So -- 10 A Traschen doesn't view the 11 videotape and I'm thrown out. 12 Q Mr. Capogrosso, is it 13 correct to say that the only evidence of 14 this statement is your complaint which 15 you filed three years later? 16 A That's what happened. 17 That's what he said to me. I remember 18 it. 19 Q So yes? 20 A I remember that statement as 21 if it was yesterday. That's exactly what 22 this man said to me, can't you go 23 practice somewhere else? I saw what you 24 wrote about me, I'm complicit, incapable 25 and incompetent. I'll remember it to the</p>
<p style="text-align: right;">Page 443</p> <p>1 M.H. Capogrosso 2 wrote about me, I'm complicit, incapable 3 and incompetent. 4 Q And what did you say? 5 A I said no, I cannot. I have 6 too many clients. I cannot, my exact 7 words to him, I cannot. I have too many 8 clients who depend on me. I had 850 9 clients on my docket at that point, 850. 10 How do I just pick up and leave? 11 Q And did anyone witness this 12 statement by Mr. Gelbstein? 13 A I think Calvo was there. I 14 believe Calvo was there. That's what I 15 wrote in -- Calvo I believe was there, 16 yes. 17 Q And is this statement by 18 Mr. Gelbstein documented in any way? 19 A I think I wrote it in my 20 complaint, didn't I? 21 Q Yes. You wrote it in your 22 complaint, but is there any contemporary 23 documentation of this statement? 24 A Well, I wrote it in my 25 complaint. Contemporary documentation?</p>	<p style="text-align: right;">Page 445</p> <p>1 M.H. Capogrosso 2 day I die. That's what he said to me. 3 Q But Mr. Capogrosso that's 4 not the question. The question is is the 5 only evidence of this statement your 6 complaint three years later, yes or no? 7 A I took notes of that. I 8 took -- I took notes of a lot of stuff 9 that happened. 10 Q Well, I don't think you've 11 produced those notes; have you? 12 A That note, no, but I wrote 13 down a lot of these things that happened. 14 Q So why didn't you produce 15 them? 16 A Well, because they're my 17 notes. 18 Q Don't you think they would 19 be relevant and -- 20 A They're my notes. I 21 expressed my notes in my complaint. 22 Q Do you still have these 23 notes? 24 A I don't know. I'd have to 25 go look at them. I expressed my notes in</p>

<p style="text-align: right;">Page 446</p> <p>1 M.H. Capogrosso 2 my complaint. 3 Q Did you look through your 4 notes in responding to our document 5 requests? 6 A I looked through everything. 7 Q And so why did you decide 8 not to produce them? 9 A I have notes that I made 10 with respect to my complaint. While 11 these things were happening, I was 12 taking -- I took down notes, yes. 13 Q And don't you think those 14 notes would be relevant to the case? 15 A I don't know. No, it was 16 expressed in my complaint. Everything 17 that was in my notes that I needed to say 18 I stated in my complaint. 19 Q So were these notes that you 20 made in 2015 at the time or were these 21 notes that you made in 2018 when you were 22 writing your complaint? 23 A 2015. Right after all this 24 stuff happened, I started taking notes of 25 everything that happened, okay. I said</p>	<p style="text-align: right;">Page 448</p> <p>1 M.H. Capogrosso 2 recall if I destroyed them or not. I 3 don't know if I still have them. 4 Q Can I ask you to -- 5 A I know I expressed 6 everything in my complaint. 7 Q Can I ask you to make a 8 search for those notes now and produce 9 them if you have them? 10 A Right at this moment in 11 time, no. 12 Q I mean no, now we are in the 13 deposition, but can I ask you before the 14 close of discovery on Monday to look 15 through what you have, see if you have 16 those notes and produce them? This is -- 17 please treat this as a formal request. 18 We can make that request in writing if 19 you'd like, but we are requesting those 20 notes and others. 21 A For the notes that I made, 22 I'll see if I have notes. I don't know 23 if they're dated. I know I wrote a lot 24 of stuff down while this was happening, 25 but everything that happened I expressed</p>
<p style="text-align: right;">Page 447</p> <p>1 M.H. Capogrosso 2 this is not right. What happened here is 3 not right. 4 Q So Mr. Capogrosso, is it 5 your testimony that you had notes from 6 2015 that are contemporaneous to these 7 events and you didn't produce them? 8 A I produced them in my 9 complaint. Whether I still have them, I 10 don't know. I don't think I do. 11 Q Did you destroy them? 12 A I put them in my complaint, 13 yes. 14 Q So yes, you destroyed them? 15 A I don't know if I still have 16 them or not. I don't think I have them, 17 no. I don't know. 18 Q So then what happened to 19 them? 20 A I expressed them in my 21 complaint. 22 Q So you wrote your complaint 23 and then you destroyed the documents that 24 it was based on; is that correct? 25 A I don't know. I don't</p>	<p style="text-align: right;">Page 449</p> <p>1 M.H. Capogrosso 2 in my complaint. 3 Q And any other notes that are 4 relevant to this case. 5 A If I have them -- if I have 6 it, I will produce it. But I know I did 7 take notes, I did use those notes to 8 write my complaint, I did do that. 9 Q And if you don't have those 10 notes now, what happened to them? 11 A I don't recall. 12 Q You don't recall? They'd 13 just be gone? 14 A I don't know. I don't -- 15 there's a lot of paperwork involved. I 16 don't know. 17 Q All right. Let's -- let me 18 put up a new document. Do you see this 19 document? 20 A Well, let me see the bottom 21 of it, see who wrote it, then I'll 22 remember it more. 23 Q Sure. 24 A Tahir, yeah. 25 Q Do you recognize this</p>

<p style="text-align: right;">Page 450</p> <p>1 M.H. Capogrosso 2 document?</p> <p>3 A Yeah. It's about Tahir 4 saying I used the word shit. I never 5 used the word shit ever. I used the word 6 eesha. I told you that.</p> <p>7 Q And what is this document?</p> <p>8 A This is a complaint by 9 Tahir.</p> <p>10 Q And this is marked --</p> <p>11 A Which I never got an 12 opportunity to respond to or supply an 13 affidavit in relation.</p> <p>14 Q And Mr. Capogrosso this is 15 Bates stamped DMV-0000016; correct?</p> <p>16 A Yes.</p> <p>17 Q Mr. Tahir wrote that you got 18 into an argument about the placement of 19 his bag; is that correct?</p> <p>20 A When I came back -- no. 21 This is what happened here. When you --</p> <p>22 Q What happened?</p> <p>23 A Well, in this little 24 attorneys' room that we got in DMV, I 25 said it's about six to eight feet long,</p>	<p style="text-align: right;">Page 452</p> <p>1 M.H. Capogrosso 2 right away from the client because 3 they're concerned about their license, 4 right.</p> <p>5 I sit on the chair. He 6 comes back. Now, there's nothing on the 7 chair. The chair is empty. It's a blank 8 chair. There's nothing on the chair. I 9 sit on the chair to answer the phone 10 call. I'm a little tired at the end of 11 the day, right. I'm tired, I want to sit 12 down and all the benches have the bags 13 from the attorneys on it. You can't sit 14 on the bench.</p> <p>15 Tahir comes in and goes 16 crazy. Why are you sitting on my chair? 17 This is my chair. I mean he had 18 conflicts with other attorneys on this, 19 too. Nobody's allowed to -- I sit where 20 I want to sit. You don't own the chair. 21 This is a chair in the attorneys' room. 22 You don't own it.</p> <p>23 And that's what caused this 24 incident on May 5, I sat on a chair in an attorneys' room that only Tahir could sit</p>
<p style="text-align: right;">Page 451</p> <p>1 M.H. Capogrosso 2 five feet wide. There's a chair in the 3 back, a chair in the back, one chair, 4 otherwise there's two benches.</p> <p>5 Now, all the attorneys, I 6 don't know why they can't do this, but 7 they put their bags on top of -- on top 8 of the benches. There's no place to sit 9 and then there's a chair in the back. 10 There's a chair in the back.</p> <p>11 Now, Tahir thinks this is 12 his chair and only he can sit in it. If 13 you sit in it, he gets all upset. It's 14 only his chair. He's the only person 15 allowed to sit in it. I don't believe in 16 that. Anybody can sit in a chair in the 17 attorneys' room. But he believes because 18 he's the senior attorney there, the 19 oldest guy, it's his chair, don't touch 20 it, don't sit on it.</p> <p>21 On that day, on May 5, I 22 walk in the attorney room. I got up and 23 I'm getting my coat or I'm getting 24 something and I get a phone call from a 25 client, so I always answer the phone call</p>	<p style="text-align: right;">Page 453</p> <p>1 M.H. Capogrosso 2 on. That's what happened.</p> <p>3 Q And then what happened?</p> <p>4 What did he do? What did you say?</p> <p>5 A He started screaming and 6 yelling at me. He said I used the word 7 shit. Actually moved his bag on the 8 other bench. He was looking at me. He 9 came in and yelled at me don't touch my 10 bag. Whose is this? I said I'm going to 11 move my bag.</p> <p>12 He mentioned the chair. I 13 was sitting on his chair. He was upset 14 that I was sitting on his chair. That 15 was the whole deal with this thing. And 16 he tells me not to touch his stuff.</p> <p>17 Well, I'm sorry, I'm allowed to sit in a 18 chair. You don't own the chair. That's 19 what happened here.</p> <p>20 Q Did you call him shit?</p> <p>21 A I said eesha. I don't use 22 the word shit. This man uses the word 23 mouther fucker like you don't believe. 24 Ever other time he speaks, it's mother 25 fucker this, mother fucker that. That's</p>

<p style="text-align: right;">Page 454</p> <p>1 M.H. Capogrosso 2 acceptable with this attorney to use 3 those words. 4 I said the word eesha. I 5 never said the word shit. 6 Q Mr. Tahir writes that you 7 think -- he thinks that you thought that 8 he was, quote, "an easy and soft target." 9 Did you think that? 10 A What do you mean, in a 11 boxing gym? In a box -- I mean an easy 12 and soft target for what? 13 Q Harassment. 14 A And easy and soft target? 15 I'm there to do a job. I'm not there to 16 harass a lawyer. I sat in his chair. 17 Another paranoid lawyer, an insecure 18 lawyer. It's his insecurities, not mine, 19 his insecurities. 20 I'm a -- he's a soft target 21 for what? What am I going -- what am I 22 in a boxing ring with this guy? We are 23 in a lawyers' -- we are in a lawyers' 24 room. We are in a courthouse. He's a 25 soft target? I don't even know what that</p>	<p style="text-align: right;">Page 456</p> <p>1 M.H. Capogrosso 2 practicing. I think he was a Muslim. 3 MR. THOMPSON: Ms. 4 MacDonald, if I can ask you in case I 5 didn't already to -- (inaudible) 6 MS. REPORTER: I don't know 7 if you were speaking. You completely 8 cut out. 9 MR. THOMPSON: In case you 10 didn't already mark it, I was asking 11 you to mark that document for 12 Mr. Tahir as Exhibit 29. 13 (The above-referred-to 14 statement was marked as Exhibit 29 15 for identification as of this date.) 16 Q Mr. Capogrosso, can you see 17 the document on the screen now? 18 A Yes. That's from Beer, 19 right, on May 5? 20 Q Do you recognize this 21 document? 22 A You have to scroll down. 23 Let me read through it. I've seen this 24 document. You're going too fast. Can 25 you go up, please? You have to let me</p>
<p style="text-align: right;">Page 455</p> <p>1 M.H. Capogrosso 2 means. 3 Q Is Mr. Tahir a big guy or 4 was he? 5 A He's a frail guy. He drank 6 a lot. I was over his apartment. He 7 drinks like a fish. He drank a ton. 8 Q Was he tall, short, fat, 9 skinny -- 10 A He was thin as a rail. 11 Q -- muscular? 12 A He was thin as a rail. 13 Q How tall was he? 14 A He was about my height, but 15 he was and he liked to drink. He drank a 16 ton. 17 MR. THOMPSON: All right. 18 Ms. MacDonald, let me ask you to -- 19 A Before I drove him home, he 20 used to go to the liquor store to pick up 21 liquor. 22 Q Was Mr. Tahir a practicing 23 Muslim? 24 A I don't know. I think he 25 was Muslim, but I don't know if he was</p>	<p style="text-align: right;">Page 457</p> <p>1 M.H. Capogrosso 2 read it. You're going too fast. 3 I have this. You're not 4 allowing me to refer to the documents I 5 have, so I have to read it, but you have 6 to -- you have to direct me to what you 7 want me to read. 8 I do reco -- I do recognize 9 the document. 10 Q Okay. And what is the 11 document? 12 A I think it was -- can you 13 see who's the signature on the bottom? 14 Is there a signature on it? 15 It's some type of affidavit 16 against me. All right. It's some type 17 of -- it's from Michael beer. All right. 18 Fine. 19 Q And this document's marked 20 DMV-0000017; correct? 21 A Yeah. 22 MR. THOMPSON: And, 23 Ms. McDonough, let me ask you to mark 24 this as Exhibit 31 and yes, I know we 25 just jumped one. Sorry about that.</p>

<p style="text-align: right;">Page 458</p> <p>1 M.H. Capogrosso 2 (The above-referred-to 3 statement was marked as Exhibit 31 4 for identification as of this date.) 5 Q Who is Michael Beer? 6 A He's an attorney down there. 7 Q Did you have a good 8 relationship? 9 A I mean I knew him. I didn't 10 really talk to him. I didn't talk to a 11 lot of the lawyers. I was there to do my 12 job, that's it. 13 Q Mr. Beer writes on May 5, 14 2015, which is the same day as the 15 incident with Mr. Tahir, that he came 16 into the attorneys' room and that as soon 17 as he did, "I was verbally accosted with 18 the demand of don't touch my fucking 19 stuff, don't stuff my fucking stuff." 20 A No. I never said that. I 21 have never said that. 22 Q You never said that? 23 A No. 24 Q Is he lying? 25 A On that statement, yes. I</p>	<p style="text-align: right;">Page 460</p> <p>1 M.H. Capogrosso 2 Q No? 3 A I never used the word shit. 4 If these attorneys would have just asked 5 me, I would have told them like I'm 6 telling you what I was saying. I said 7 eesha. It was never the word shit. 8 Now if these attorneys would 9 have just asked me what I was saying 10 under my breath, which I'm allowed to do, 11 I would have explained it to them. 12 Q So Mr. Beer writes that he 13 did ask you. He said "Excuse me, what 14 did you just say to me" and you responded 15 that "It didn't relate to you. I'm angry 16 at a judge." 17 Do you remember that? 18 A I might have been angry at a 19 judge's decision. A lot of times we got 20 angry at judge's decisions. I really 21 felt -- you know, I really was very 22 passionate about arguing and winning 23 cases for my clients, I was. 24 Sometimes when I thought a 25 judge really just did a bad job, I was</p>
<p style="text-align: right;">Page 459</p> <p>1 M.H. Capogrosso 2 would never say that. I always carried 3 my stuff with me for the most part. 4 Q He says that he didn't touch 5 your stuff. You asked about a camera. 6 Why did you ask about a camera? 7 A There was no camera. There 8 was no camera, no. I did accuse Smart of 9 moving -- of tampering with my files, I 10 did do that and he was doing it because I 11 saw them moved when I left them in the 12 attorneys' room and I saw him go in there 13 and do it. I did see that. 14 But I never said anything 15 about putting a camera in the attorneys' 16 room and I never accused Beer. Beer was 17 actually a very nice lawyer. He was a 18 nice guy. 19 Q He says that you said piece 20 of shit, piece of shit at him, which he 21 heard you state to others many times in 22 the past. Did you say that -- 23 A No. 24 Q -- on May 5? 25 A No. I never --</p>	<p style="text-align: right;">Page 461</p> <p>1 M.H. Capogrosso 2 angry, yeah. I would get angry if a 3 judge made a bad decision, I really 4 would. 5 But if a judge made a good 6 decision and the cop, you know, did 7 everything right on the case, it was 8 fine, we all accepted it. But when I 9 thought a guy -- 10 Q So did you -- 11 A -- didn't get a fair chance 12 in a courtroom and no matter what you 13 did, I would get angry, of course I 14 would. I really took a very liking to my 15 clients and I felt badly that they lost. 16 I thought they should have won it, so 17 yeah, I was angry. 18 But did I say anything to 19 him, no, I didn't say anything to the 20 man. 21 Q And you didn't say piece of 22 shit, piece of shit? 23 A No, not to him. Not to him, 24 not to him. 25 Q Mr. Beer writes -- Mr. Beer</p>

<p style="text-align: right;">Page 462</p> <p>1 M.H. Capogrosso 2 writes later that he left the room and 3 that the issue of don't touch my fucking 4 stuff was an ongoing issue all day. 5 Quote, "And I witnessed Mario Capogrosso 6 yelling at Mr. Tahir to not touch his 7 fucking stuff."</p> <p>8 Does that refresh your 9 recollection at all about --</p> <p>10 A No.</p> <p>11 Q -- what happened on May 5?</p> <p>12 A No. What I remember on 13 May 5 was one thing. I walked in that 14 attorneys' room to sit on a chair. It 15 was at the end of the day, to sit on a 16 chair or maybe I placed my bag on the 17 chair and Tahir said this is my chair and 18 get your stuff off it or don't sit on it, 19 but I know it involved Tahir's chair that 20 nobody was allowed to touch.</p> <p>21 And maybe I put my bag on 22 the chair for a minute or I sat on the 23 chair for a minute or something to that 24 effect, but that was it and Tahir thought 25 that this chair, he owned the chair in</p>	<p style="text-align: right;">Page 464</p> <p>1 M.H. Capogrosso 2 to touch his chair. 3 And this is an attorneys' 4 room for all the attorneys, but nobody's 5 allowed to touch his chair or put 6 anything on his chair. So maybe I told 7 Tahir leave my bag alone.</p> <p>8 Q Did you --</p> <p>9 A But did I use those words, 10 no, I never said that, no.</p> <p>11 Q Mr. Beer writes that you 12 started ranting that guy, alluding to 13 Gelbstein, threw out Chuck Willinger and 14 now Chuck Willinger is dead. What does 15 that mean?</p> <p>16 A Well, Willinger was an 17 attorney when I first started. I have to 18 read it. Can you go back up?</p> <p>19 Q Sure.</p> <p>20 A Go back up.</p> <p>21 Willinger was an attorney. 22 I never said for the judge to put a gun 23 to his head. Willinger was a guy that 24 was a lawyer down at the Brooklyn TVB 25 when I first got there and he had some</p>
<p style="text-align: right;">Page 463</p> <p>1 M.H. Capogrosso 2 the room.</p> <p>3 Q Mr. Beer writes --</p> <p>4 A That's what happened on May 5 5.</p> <p>6 Q So you never had an 7 altercation with Mr. Beer?</p> <p>8 A Not that I recall, no. Beer 9 was a nice guy. He was a really nice 10 guy.</p> <p>11 Q So why -- so you said that 12 he was lying about this. Why would 13 Mr. Beer lie?</p> <p>14 A I don't know why. I know 15 what happened that day. I know exactly 16 what happened. There was a chair there. 17 I wanted to sit down in the chair. I 18 wanted to make a phone call. I was 19 tired. Maybe I stood up and put my bag 20 on the chair because there was nowhere 21 else to put the bag. Maybe I was still 22 on the phone and Tahir comes in and gets 23 all upset and maybe Tahir was trying to 24 move my bag, I don't know, off his 25 personal chair because nobody was allowed</p>	<p style="text-align: right;">Page 465</p> <p>1 M.H. Capogrosso 2 issues, Mr. Willinger. To say the least, 3 he had some issues and he wasn't -- he 4 was -- as I understand it, eventually we 5 became friends me and him, as I 6 understand he had issues with drugs, a 7 lot of drugs.</p> <p>8 And he was making money at 9 the start, but then he got involved with 10 cocaine and he winds up committing 11 suicide. They found him dead on his bed 12 one day.</p> <p>13 Q Sorry.</p> <p>14 A He wasn't showing up for 15 cases because he was on so much drugs. 16 He wasn't showing up and Gelbstein threw 17 him out because he wasn't showing up for 18 some reason. I don't know why he threw 19 the guy out of the DMV.</p> <p>20 And he never gave the guy a 21 hearing. Never gave him an opportunity 22 to at least, you know, give him a chance.</p> <p>23 Q Is there an entitlement to a 24 hearing if you're thrown out of the DMV?</p> <p>25 A Oh, no. It's my personal</p>

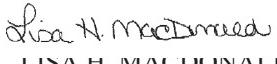
<p style="text-align: right;">Page 466</p> <p>1 M.H. Capogrosso 2 opinion. If you're telling a guy he 3 can't show up, at least hear his story. 4 Give him a reason. I don't know if 5 you're entitled or not, but give the guy 6 a chance. Give him a fair chance, you 7 know.</p> <p>8 Q So --</p> <p>9 A I personally covered --</p> <p>10 Q -- Mr. Beer -- I'm sorry.</p> <p>11 A I covered cases for the guy 12 when he wasn't there. I covered his 13 cases, some of his cases. I tried the 14 best to help the guy out when he wasn't 15 there. You know, he was on drugs, what 16 are you going to do.</p> <p>17 But at least give the man a 18 chance to, you know, clean up his act, 19 but he threw him out, that's it and 20 then --</p> <p>21 Q Mr. Beer --</p> <p>22 A But I never said the judge 23 put a gun to his head. That's 24 ridiculous.</p> <p>25 Q Well, Mr. Beer writes -- he</p>	<p style="text-align: right;">Page 468</p> <p>1 M.H. Capogrosso 2 have been given a hearing, that's what I 3 felt, an opportunity to at least give his 4 position before they threw him out, 5 especially what happened to me in 6 December of 2011, right, that's how I 7 felt.</p> <p>8 He should have gave 9 Willinger at least an opportunity to at 10 least hear his side of the story, but 11 they didn't give him that opportunity so, 12 yeah, I felt bad for the man because I 13 was in the same predicament as he was.</p> <p>14 Q Why --</p> <p>15 A Did I tell the judge to put 16 a gun to his head, absolutely not.</p> <p>17 Q Why were you in the same 18 predicament as Mr. Willinger?</p> <p>19 A Because I got thrown out 20 with that guy Brody over there, right, in 21 December 2011 after Brody told me to go 22 fuck myself twice, without a hearing, 23 without anything, without an affidavit, 24 nothing.</p> <p>25 I felt bad for the guy. I</p>
<p style="text-align: right;">Page 467</p> <p>1 M.H. Capogrosso 2 doesn't say that you told the judge to 3 put a gun to his head. He says that you 4 said that if Judge Gelbstein was a man, 5 he would put a gun to his head.</p> <p>6 A No. I never said that.</p> <p>7 That's absolutely ridiculous. That's a 8 total lie. That's a lie. First of all, 9 I don't really give a darn about 10 Willinger. I felt bad for the man, you 11 know, but did I hang out with the guy, 12 no.</p> <p>13 I mean, you know, he was a 14 lawyer, I was a lawyer. I felt bad for 15 the guy, he was on drugs and he died of 16 suicide, but that was -- you know, he 17 made the decision what to do with his 18 life.</p> <p>19 Why would I -- why would I 20 tell Gelbstein put a gun to his head? 21 That's ridiculous.</p> <p>22 Q Why would Mr. Beer be lying 23 about something like this?</p> <p>24 A I don't know. I didn't say 25 that remark. I know Willinger should</p>	<p style="text-align: right;">Page 469</p> <p>1 M.H. Capogrosso 2 did feel bad. I covered his cases as 3 best as I could. I didn't want to see 4 the guy, but I felt bad for him. He had 5 a real drug problem this guy. He wound 6 up dissolute, lost all his money. They 7 found him dead in his apartment one day. 8 I felt bad for the man. I truly did. We 9 are all attorneys. I felt bad for the 10 guy.</p> <p>11 I didn't tell Gelbstein to 12 put a gun to his head. It's ridiculous. 13 I was in the same predicament as 14 Willinger. They threw me out, too. They 15 gave me no opportunity to respond to 16 anything.</p> <p>17 Q Mr. Capogrosso, so we've 18 looked at reports from Tahir and 19 Mr. Beer. I'll represent to you that 20 there are two other reports that 21 corroborate you yelling at people about 22 touching your things and being verbally 23 abusive on this day, May 5, the other two 24 being from Kimberly Rivers and Danielle 25 Calvo.</p>

<p>1 M.H. Capogrosso 2 Are they all lying about 3 you? 4 A Now, Kimberly Rivers would 5 have been -- I don't know. Let's address 6 them one at a time. I told you what 7 happened that day. I told you what 8 happened that day. I was in the 9 attorneys' room, there was a chair in the 10 attorneys' room. I'm telling you what 11 I -- what I recall. Either I sat on the 12 chair or I put my bag on the chair. 13 Tahir thought this is only his chair, 14 that nobody could touch it. He walks in 15 the room, starts moving my -- tells me 16 to -- and I'm sitting in the chair. 17 At some point I might have 18 gotten up and put my briefcase on it and 19 he starts moving my briefcase. I said 20 don't touch my briefcase and he shouldn't 21 have touched it. He shouldn't have 22 touched it. He doesn't own the chair in 23 the lawyers' room. He doesn't own it. 24 Q So Mr. Capogrosso -- 25 A Now, what would you -- the</p>	<p>Page 470</p> <p>1 M.H. Capogrosso 2 that day. I was there. I was there. 3 Q Let me -- 4 A I know what happened. 5 Q Let me you ask a question. 6 A Well, let me ask you a 7 question. Tahir said the word mother 8 fucker throughout the day. He doesn't 9 get removed. He said the word mother 10 fucker to everybody and everyone, every 11 client sometimes. He says mother fucker 12 judge this, he got a bad hearing. He 13 says it all the time. 14 Diantha Fuller cursed me 15 out. She curses. Are they being removed 16 from the Brooklyn TVB, no. No, they're 17 not. So what is their basis? Attorneys 18 curse all the time if it's not on -- they 19 do it at -- they curse all the time down 20 there. I'm sorry -- 21 Q So let me ask you -- 22 A -- but I don't see any other 23 attorney getting thrown out. 24 Q Mr. Capogrosso, let me ask 25 you the question if I may. I have a</p>
<p>1 M.H. Capogrosso 2 man should not have put his hands on my 3 briefcase if that's what he did on that 4 day, but I was in the -- I was either 5 sitting on his chair or my briefcase was 6 on his chair and I'm making a phone call 7 to a client and I'm telling the other 8 lawyer leave my briefcase alone, that I 9 probably said or I was sitting on his 10 chair, which I had a right to do. 11 Q Mr. Capogrosso, if -- and I 12 know you don't believe that it's true and 13 I know you don't agree, but if everything 14 that these four people said about you was 15 true and you had been yelling and cursing 16 at people about moving your stuff and 17 saying that the judge should put a gun to 18 his head, would those be grounds to expel 19 you from the TVB? 20 A No. First of all, I'm not 21 going to talk about hypotheticals because 22 none of that that they're saying 23 happened. I told you exactly what 24 happened that day. I'm not going to deal 25 in hypotheticals. I know what happened</p>	<p>Page 471</p> <p>1 M.H. Capogrosso 2 question for you. What conduct or 3 behavior would justify someone being 4 expelled from the TVB? 5 A I have no idea. I don't 6 know. I didn't verbally abuse anybody. 7 I used the word eesha, eesha. 8 Q So -- 9 A That's not verbal abuse. 10 Imagine I said stay away from my stuff, I 11 don't think that's verbal abuse. Maybe I 12 sat in somebody's chair. That's not 13 verbal abuse. I didn't threaten anybody 14 with any physical conduct -- with any 15 physical -- with anything. 16 Q So -- 17 A I didn't threaten anybody. 18 Q -- Mr. Capogrosso -- 19 A I don't know. 20 Q You don't know what standard 21 of behavior -- you don't know what 22 infractions would justify someone being 23 expelled from the TVB? 24 A Well, have the same standard 25 for everybody. Have the same standard</p>

<p style="text-align: right;">Page 474</p> <p>1 M.H. Capogrosso 2 for everybody. 3 Q I'm not asking about your 4 standard. I'm asking about the TVB's 5 standard. 6 A I don't know. Ask the TVB. 7 I know I didn't verbally abuse anyone. I 8 abused no one. 9 Q Let me ask you this, is 10 there -- 11 A I didn't abuse anyone. 12 Q Is there anything that you 13 could do that would justify your being 14 expelled from the TVB? 15 A I don't know. You tell me. 16 I don't know. Take -- I'll tell you 17 what, what I would do, if you took a case 18 as a lawyer and you didn't argue that 19 case before the judge and you just took 20 the money and didn't show up, yeah, I 21 would think that would get you removed. 22 That's why I took it very 23 seriously about showing up on every case. 24 When they threw it at -- you know, you 25 didn't show up for a case that you got</p>	<p style="text-align: right;">Page 476</p> <p>1 M.H. Capogrosso 2 that's totally inappropriate if 3 Gelbstein's got a caseload and there's an 4 attorney covering cases for him. 5 Q I understand that, but the 6 question was can you name -- 7 A Name anyone? 8 Q -- anyone by name who should 9 have been expelled? 10 A Anybody who was paying 11 clerks and giving clerks cash in gifts 12 and buying breakfast to get favor from 13 those clerks, yes. 14 Q The question is by name -- 15 A By name? 16 Q -- can you name anyone? 17 A You have to do your job. 18 I've done my job here. I told you what I 19 saw and I see. That's the Attorney 20 General's job. That's the DMV Inspector 21 General's job. That's not my job. 22 I told you what I saw and 23 what I -- you asked me a very specific 24 question. That would be the reason for 25 expelling somebody, bribing clerks.</p>
<p style="text-align: right;">Page 475</p> <p>1 M.H. Capogrosso 2 paid on, I think that would be egregious. 3 I think if you bribed a 4 clerk, which the attorneys -- or give 5 money to a clerk, I think that would be 6 egregious and you should be thrown out, 7 absolutely and I saw that or you gave 8 money to a clerk and cash gifts to a 9 clerk because you were seeking favor from 10 that clerk, I think that's a reason. 11 Paying off and bribing 12 clerks, I think that's a reason, 13 absolutely. 14 Q Do you think that there's 15 anyone else who practiced before TVB who 16 should have been expelled? 17 A Absolutely. 18 Q Who? 19 A Any lawyer who's bribing a 20 clerk, giving a clerk money. I think -- 21 Q Can you name anyone specific 22 who you think should have been expelled? 23 A Any clerk -- any attorney 24 that's covering cases for Judge Gelbstein 25 I think should be thrown out. I think</p>	<p style="text-align: right;">Page 477</p> <p>1 M.H. Capogrosso 2 Getting -- 3 Q So just for the record, you 4 have not named anyone. 5 A How about Judge Gelbstein 6 asking for a piece of the action? 7 Absolutely he should be out. Absolutely 8 he should be out. 9 Ida -- Ida Traschen should 10 be thrown out for not viewing evidence, 11 not viewing evidence. 12 Danielle Calvo should be out 13 for not viewing evidence and saying I 14 pushed Smart when she didn't view the 15 push. Danielle Calvo should be out 16 because she didn't view any evidence. 17 Melanie Levine should be out 18 because she filed a false report. She 19 should be out for filing a false report 20 about me and that could have been very 21 easily investigated. 22 Who else? Smart. 23 Vahdat should be thrown out 24 by giving a false statement that I 25 followed a clerk and stopped him, which</p>

<p style="text-align: right;">Page 478</p> <p>1 M.H. Capogrosso 2 is not what happened because if you asked 3 George Hon, that's a false statement. 4 She should be thrown out because George 5 Hon approached me that afternoon because 6 I was talking to his girlfriend and I 7 told you that. 8 Those are the people who 9 should be thrown out. 10 Q Anyone else? 11 A Traschen. Who else did I 12 miss? Vahdat, Gelbstein. Gelbstein for 13 getting a piece of the action, having 14 lunch with ticket brokers and meeting 15 with ticket brokers when he doesn't know 16 what they're doing. 17 The judges -- the lawyers 18 paying off the clerks, giving them money. 19 The clerks accepting the money. The 20 clerks accepting the money. The clerks 21 advising motorists, and I heard this at 22 the DMV, these clerks advising go plead 23 yourself guilty. You're not going to get 24 any points. What are you telling a 25 motorist? A clerk was doing that.</p>	<p style="text-align: right;">Page 480</p> <p>1 M.H. Capogrosso 2 MR. THOMPSON: Ms. 3 MacDonald, Mr. Brodsky, is there 4 anything that we should discuss here 5 before we go off the record? 6 MR. VIDEOGRAPHER: If 7 there's any stipulations you want to 8 put on the transcript, you can tell 9 the court reporter. 10 MR. THOMPSON: I think only 11 that we agreed at yesterday's 12 deposition that Mr. Capogrosso would 13 share a copy of those transcripts 14 with me and that I would share a copy 15 of today's with him, correct? 16 Is that right, 17 Mr. Capogrosso? 18 THE WITNESS: Yeah. You're 19 going to send me a copy, I'll send 20 you a copy of what I ordered, 21 absolutely. 22 MR. VIDEOGRAPHER: Then I'll 23 wrap it. Here ends media unit number 24 six -- 25 THE WITNESS: I'm sorry.</p>
<p style="text-align: right;">Page 479</p> <p>1 M.H. Capogrosso 2 Telling a motorist to go plead yourself 3 guilty or you don't need an attorney on 4 this, just go plead yourself guilty. 5 Why is a clerk giving advice 6 to a motorist? That was happening all 7 the time. I would get upset with that. 8 Those are the people who 9 should be thrown out, but -- those are 10 the people, not a hard working attorney 11 who has no complaints by any clients or 12 motorists, no, absolutely not. 13 Tanya Rabinovich should be 14 thrown out. She's calling herself a 15 lawyer and collecting a fee and going to 16 the counter and the clerks are doing 17 business with her. She's rescheduling 18 cases and pleading people guilty at the 19 counter and she's not a lawyer. She 20 should be thrown out. 21 That's who should be thrown 22 out. 23 Q Well, I have no further 24 questions. 25 A There you go.</p>	<p style="text-align: right;">Page 481</p> <p>1 M.H. Capogrosso 2 One question to Attorney Thompson. 3 How are you going to send me a copy? 4 Are you going to e-mail it to me or 5 are you going to send me a hard copy? 6 MR. THOMPSON: That's a good 7 question. I actually don't know what 8 format I'm going to get this in. 9 So, Ms. MacDonald, are we 10 going to get digital, hard copy or 11 both? 12 MS. REPORTER: However you 13 want to order it. 14 MR. THOMPSON: That's a good 15 question. I generally much prefer 16 digital. Can I e-mail it to you? 17 MS. REPORTER: I think 18 that's to you, Mario. 19 MR. THOMPSON: Yes. 20 Mr. Capogrosso? 21 THE WITNESS: All right. If 22 you get it digitally, I'll take it 23 digitally, that's it. I'm not going 24 to ask you print it out. If you get 25 it digitally, I'll take it digitally.</p>

<p style="text-align: right;">Page 482</p> <p>1 M.H. Capogrosso 2 If I get it by hard copy, 3 then I'm going to get you a hard copy 4 back, all right? 5 MR. THOMPSON: Okay. 6 THE WITNESS: However I 7 receive it, I'll give it to you. 8 However you receive it, you give it 9 to me. That's all I can do. 10 MR. THOMPSON: Digital is 11 fine by us, so thank you. 12 THE WITNESS: All right. 13 The other question is you 14 said you missed five pages out of one 15 of my exhibits I gave you showing 16 my -- my docket and my monies earned. 17 I have to get you those five pages or 18 if you ask your clerk in your office, 19 I don't think they scanned it in 20 because I didn't omit any pages, but 21 I will check that, all right. 22 MR. THOMPSON: And, you 23 know, again as we did ask if you have 24 any of the contemporary notes from 25 2015 that you referenced, we'd like</p>	<p style="text-align: right;">Page 484</p> <p>1 2 INDEX 3 INDEX TO TESTIMONY 4 Page Line 5 Examination by Mr. 127 6 Thompson 6 7 INDEX TO REQUESTS 8 9 Page Line 10 The notes 448 7 11 INDEX TO EXHIBITS 12 13 Description Page Line 14 Exhibit 3 155 3 15 Statement from L. Perez, 16 Jr., Bates stamped 17 P-80 18 Exhibit 4 156 23 19 Statement of Roy Tucci, 20 Bates stamped P-82 21 Exhibit 5 163 2 22 Statement of Marisol 23 Cervoni, Bates stamped 24 P-84 25 26 Exhibit 6 194 10 27 Statement of Diantha 28 Fuller, Bates stamped 29 P-86 30 Exhibit 7 210 10 31 Statement with a list of 32 signatures, Bates 33 stamped DMV-000024</p>
<p style="text-align: right;">Page 483</p> <p>1 M.H. Capogrosso 2 copies of those as well. 3 THE WITNESS: All right. 4 Fine. 5 MR. VIDEOGRAPHER: Okay. 6 Then here ends media unit number six. 7 This concludes the video recorded 8 virtual remote deposition of Mario H. 9 Capogrosso taken by the defendants on 10 Friday, December 18, 2020. 11 The time is 5:21 p.m. 12 Eastern Standard Time and we are 13 going off the record. 14 15 16 ----- 17 MARIO H. CAPOGROSSO 18 19 Subscribed and sworn to 20 before me on this _____ day 21 of _____, 2021. 22 23 24 NOTARY PUBLIC 25</p>	<p style="text-align: right;">Page 485</p> <p>1 Index 2 Exhibit 8 228 16 3 Statement of Yaakov 4 Brody, Bates stamped 5 P-92 6 7 Exhibit 9 252 3 8 Statement of Richard F. 9 Maher, Bates stamped 10 P-250 11 Exhibit 10 266 9 12 Statement of M. Sadiq 13 Tahir, Bates stamped 14 P-96 15 16 Exhibit 11 280 14 17 Statement of Jeffrey A. 18 Meyers, Bates stamped 19 P-248 20 Exhibit 12 293 8 21 Statement of Bushra 22 Vahdat, Bates stamped 23 DMV-000024 24 25 Exhibit 13 311 10 26 Letter dated January 25, 27 2012 to Ms. Fiala from 28 Chris McDonough, Bates 29 stamped DMV-000026 30 31 Exhibit 16 326 19 32 Letter dated May 15, 33 2012 to Chris 34 McDonough and 35 Jacqueline A. Rappel 36 from Serwat Farooq, 37 Bates stamped 38 DMV-0000205 39 Exhibit 17 327 18 40 Report from John T. 41 McCann, PhD dated June 42 14, 2012, Bates 43 stamped P-28 and P-29 44 Exhibit 19 333 7 45 Letter dated June 20,</p>

	Page 486		Page 488
1 Index		1	
2 2012 to Jacqueline A.		2 C E R T I F I C A T I O N	
Rappel from Serwat		3	
3 Farooq, Bates stamped		4 I, LISA H. MACDONALD, a Registered	
P-143		5 Professional Reporter and a Notary	
4 Exhibit 18 338 19		6 Public, do hereby certify that the	
5 Stipulation of		7 foregoing witness, MARIO H. CAPOGROSSO,	
Discontinuance		8 was duly sworn on the date indicated, and	
6 Exhibit 20 343 16		9 that the foregoing is a true and accurate	
7 Report of Workplace		10 transcription of my stenographic notes.	
Violence Incident		11 I further certify that I am not	
8 Exhibit 21 348 22		12 employed by nor related to any party to	
9 Statement of Wanda		13 this action.	
Alford, Bates stamped		14	
10 DMV-0000061		15	
11 Exhibit 22 359 4		16	
Note of David Smart,		17	
12 Bates stamped		18 	
GELB-0000059		19 LISA H. MACDONALD, RPR	
13 Exhibit 23 360 3		20	
14 Statement of Paul Perez,		21	
Bates stamped		22	
15 GELB-0000058		23	
16 Exhibit 24 372 8		24	
Statement of Melissa		25	
17 Vergara, Bates stamped			
DMV-0000059			
18 Exhibit 25 376 14			
19 Report of Workplace			
Violence Incident			
20 Exhibit 26 396 17			
21 E-mail from Geri Piparo			
to Alan Gelstein,			
22 Bates stamped			
GELB-0000035			
23 Exhibit 27 407 23			
24 Memo to File from			
Diantha Fuller, Bates			
25 stamped DMV-0000003			
	Page 487		Page 489
1 Index		1	
2 Exhibit 28 408 16		2 ERRATA SHEET	
Letter dated March 20,		3 VERITEXT/NEW YORK REPORTING, LLC	
3 2015 to Elizabeth		4 1-800-727-6396	
Prickett-Morgan from		5 330 Old Country Road 1250 Broadway	
4 Mario Capogrosso,		6 Mineola, NY 11501 New York, NY 10001	
Bates stamped P-41 and		7	
5 P-42		8 NAME OF CASE: Capogrosso v Gelbstein	
6 Exhibit 29 456 13		9 DATE OF DEPOSITION: December 18, 2020	
Statement of M. Sadiq		10 NAME OF DEponent: Mario H. Capogrosso	
7 Tahir, Bates stamped		11	
DMV-0000016		12	
8 Exhibit 31 458 2		13	
9 Statement of Michael E.		14	
Beer, Bates stamped		15	
10 DMV-0000017		16	
11		17	
12		18	
13		19	
14		20	
15		21 MARIO H. CAPOGROSSO	
16		22 SUBSCRIBED AND SWORN TO BEFORE ME	
17		23 THIS ____ DAY OF _____, 20___. 24	
18		25 (NOTARY PUBLIC) MY COMMISSION EXPIRES:	
19			
20			
21			
22			
23			
24			
25			

92 (Pages 486 - 489)

Veritext Legal Solutions

212-267-6868

516-608-2400

[0000003 - 266]

Page 1

0	10005 126:10 10804 126:5 11 129:16 280:13 280:15 308:19,23 309:5 345:11 413:11 416:15 417:11 424:19 442:19 444:4 485:9 11501 489:4 11:48 125:13 127:3 12 255:14 283:13 293:7,9 327:25 485:12 122 129:13,14 122,715 129:11 1250 489:4 127 484:5 12:40 190:17 12:45 190:20 13 311:9,11 319:10 399:21 485:14 487:6 14 326:10 485:9,23 486:18 143 333:2 486:3 14th 385:24 386:7 15 127:19 309:22 336:14 485:18 150 277:4 344:23 356:2 155 484:13 156 484:16 16 326:8,17,20 331:18 336:7 485:2,17 486:6 487:2 163 484:18 17 327:17,19 485:22 486:20	18 125:12 220:2 221:15 222:6,21 338:18,21 392:8 483:10 485:22 486:4 489:6 18-2710 125:3 19 333:6,8 338:24 340:18 485:17,25 486:4 194 484:20 1:15 227:6 1:20 227:4,10 1:21 227:19 1:22 227:23 2 2 316:12 344:5 430:9,18 484:18 487:8 20 231:11 315:3 332:8 333:16 336:10,10,16 343:15,17 408:22 485:25 486:6 487:2 489:23 200 277:3 2005 245:9 295:13 295:15,18 2009 146:8 151:15 164:16 197:22 2011 215:7 228:9 229:6 248:23 269:3 278:6 296:5 300:12 310:16 313:10 344:3,15 431:11 468:6,21 2012 313:10,16,23 314:17 318:12 333:16 336:14 341:4 342:21 346:19 347:5 358:17 430:7	485:15,18,23 486:2 2014 346:4 349:10 398:11 2015 129:17 308:9 390:2 399:21 434:5 446:20,23 447:6 458:14 482:25 487:3 2018 446:21 2020 125:12 313:9 313:12 314:2 483:10 489:6 2021 483:20 21 126:5 229:6 278:6 299:16 300:12 301:2 348:21,23 352:19 486:8 210 161:19,20 484:23 22 228:9 295:4 297:2 298:23 299:21 359:3,5 486:8,11 228 485:2 22nd 229:5 23 360:2,4 371:11 484:16 486:13,23 24 372:7,9 486:16 244 209:12 248 279:14 485:11 25 376:13,15 383:18 485:15 486:18 250 252:10 485:6 252 485:4 26 396:16,18 486:20 266 485:7
1			
1 127:8 144:15 151:19,20,23 302:22 1-800-727-6396 489:3 10 128:13 136:20 138:22 235:22 237:3,3 266:8,10 327:25 335:21 381:15 484:20,23 485:7,14 10,000 263:20 335:20 339:24 440:18 100 277:4 10001 489:4			

[27 - absolutely]

Page 2

27 332:5 341:4,6 341:24 342:21 396:21 407:22,24 486:23 28 126:9 327:9 408:15,17 426:14 426:18 485:24 487:2 280 485:9 29 349:10 456:12 456:14 485:24 487:6 293 485:12 2:33 310:5 2:45 309:23 2:48 310:9	4	7,500 339:24 7/31/09 196:24 78 310:21 319:15 323:6 337:7,24 341:19 411:15,19 412:24 414:15 8 42 487:5 448 484:9 456 487:6 458 487:8 4:03 397:5 4:05 397:9 4:28 426:9 4:33 426:7,12	137:2 305:5,13 307:13 abrasive 281:2 absolute 183:18 239:8 248:16,17 248:20 249:3,7 257:17 305:22 356:17 377:22,23 378:5,8 absolutely 143:24 145:13 150:6 152:18,18 153:17 159:22 160:15 161:12 169:14,14 170:7 171:24,25 172:3 173:23 183:4 189:12 200:6,17 201:5,9 205:15,19 207:14 209:2 211:24 212:2 214:5 215:10,11 217:23 217:25 223:7,9 225:10 228:5,12 237:2 239:17 251:3 264:23 275:3,20 277:7 281:17 284:12 309:17 313:24 319:8 329:17 331:3 342:17,18 347:16 350:5 355:11 357:10,10 357:21,23 359:10 391:8,22 392:4 394:10,10 408:5 415:23 431:4,4,8 431:21 433:23 435:16 436:13,16 436:17 442:9 467:7 468:16
	3		
	5		
	6		
	7		
	8		
	9		
	a		
	a.m.		
	aa		

[absolutely - age]

Page 3

475:7,13,17 477:7 477:7 479:12 480:21 abuse 334:10 352:21 404:20,22 405:2,5,12,13,16 405:25 406:10,12 407:7,10,17 412:12 414:17 473:6,9,11,13 474:7,11 abused 141:16,18 141:21 156:15 297:23 474:8 abusing 382:9 407:11,14 412:2 abusive 469:23 accept 304:23 acceptable 308:5 387:7 388:14 412:2,3,5 454:2 accepted 265:3 307:22 407:13 461:8 accepting 478:19 478:20 accommodate 255:2 accompany 164:19 accosted 458:17 account 253:22 268:18 accurate 488:9 accusation 169:20 188:5 246:23 261:9 351:3 accusations 166:17,22 167:4 183:20 204:19 213:2 222:3	341:14 accuse 170:9 187:11 208:4 308:20 459:8 accused 170:8 178:18 221:21 278:11 328:17 344:6 352:14 353:19,19 354:25 393:4 459:16 accusers 246:8 accusing 348:7,14 349:18,24 acknowledging 255:24 act 251:12 322:8 329:6 331:6 411:24 466:18 acted 245:11 acting 162:21 243:21 249:13 262:17,21,22 306:17 action 141:10 249:25 296:15 406:23,25 407:2 431:9,15 439:24 440:2 477:6 478:13 488:13 actions 206:23 442:2 add 194:15 address 188:5,18 202:15 220:19 294:9 410:20 411:5 413:21 470:5 addressed 224:16 300:23 349:12 381:12	addressing 188:20 380:16 adhere 332:15 333:24 334:5 414:25 415:11,16 adhered 322:18 332:14,19 334:16 336:17 adjourning 437:9 adjudicated 320:19 321:10 adjudication 316:21 administrative 306:17 admission 138:18 admit 149:19 170:15 173:22 211:24 271:20,21 394:8 admits 356:15 391:11 394:9 407:6 admittance 138:14 admitted 146:18 147:5,6,9 160:6 303:7 305:9 306:24 advice 479:5 advise 340:25 advised 316:16 325:6,9,12,23 326:24 334:3 advising 478:21 478:22 advocate 136:17 136:18 174:9 187:8 advocator 174:8 180:7	affidavit 151:11 187:17 202:10,11 202:16,23 209:22 209:23 218:4 228:7 232:6,7,7,8 232:15 244:8 252:14,16 262:5 263:11,16,18 264:24 266:2,4 267:17 271:8,8,9 279:22,24 280:8 286:23 289:11 291:14 292:2 293:4,18,23 295:18 303:24 307:9,12,23 317:10 349:13 371:24 375:17 377:11 381:13,14 381:15,16,19,24 382:16,18 383:23 386:6 387:23 430:15 450:13 457:15 468:23 affidavits 195:6,7 202:14 204:15 249:18,20 265:4 289:15 300:16,18 312:12 314:19,21 340:14 359:23 affirmation 248:21,23 afforded 441:14 afraid 181:19 182:3,9,10,19 212:13,14,15 afternoon 279:12 354:5 424:3,3 442:18 478:5 age 135:9,10,11
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[aggravation - anymore]

Page 4

aggravation 219:3 219:4	al 125:9 alan 125:9 234:15 251:18 486:21	allowing 457:4 allows 357:2 alluding 464:12 alongside 288:20 altercation 178:5 206:17 377:9,25 463:7	answer 211:12 385:19 420:6,14 421:4,13 422:3,6 423:3,12,22 425:4 425:15 451:25 452:9
aggressive 168:21 169:8 171:5 179:17 185:15,23 186:2,7 187:10,16 189:10 321:21	alford 350:21 352:2,4,5 486:9	altercations 187:6	answered 160:20 298:11,13 419:25
aggressively 162:21 168:17	alj 294:20 aljs 139:18	amendment 385:25 386:7	anti 142:4,11 230:17 231:5
agnes 196:22 197:3 199:15	allegation 148:10 150:24 245:10	america 236:13 american 244:23 246:12 259:5,6 264:22	233:5 235:20,22 235:25 236:3,5 237:6,9,24 238:6
ago 286:6 313:11 313:11 403:3,18 414:10 415:20	allegations 143:22 169:17 180:15	amount 129:14,25 131:13,14 132:13 166:15 366:20,20	243:16 245:8 247:4 257:3 261:2 261:24 268:15
agree 148:15 289:23 320:2 471:13	204:3 211:2 315:10,12 339:14 340:9 384:24	andy 167:23 168:2 168:9	270:19 280:20 281:7,21 286:24
agreed 322:3,4,6 322:11,19 332:11 333:12,20 335:9 335:11,13 336:18 337:22 338:14 339:8 340:2 397:13 428:6,14 428:16 480:11	allegedly 432:6 alleging 380:13 allow 417:21 allowed 134:8 135:21 139:21	anger 232:2 238:9 244:3 245:18 263:19 269:5	anybody 151:2 152:5,6 153:14 158:10 183:7 187:7 216:11
agreement 321:13 322:16 440:11	140:4 164:25 166:20 196:14	270:15 320:2 321:15,17 322:3 322:11,20 324:17	223:11,15 249:6,6 263:13 275:7
ah 208:21	214:8,9,10,13 216:3,6,14 241:15	327:12,13,22 332:3,12 333:20	331:7 369:12
ahead 142:24 145:15 157:13 167:17 202:18 257:24 259:14 269:11 294:17,18 309:20 322:21 323:23 329:14 348:8 349:7 364:13 371:21 410:12 430:21 438:19	241:17 242:9 286:15 304:14,15 304:16 307:25 308:5 309:11 317:11,25 321:24 332:5 379:18 399:13 400:17 401:9,10 405:19 405:22,23 410:9 426:22 440:6,12 440:15 451:15 452:19 453:17	336:17,19 337:14 337:19 338:4,6,8 338:10,13 339:9 339:22 344:13 356:4 426:21 428:7 440:16	383:21,22 384:20 387:3 402:19 403:24 406:10,16 451:16 473:6,13 473:17 476:10
air 283:22 291:2 303:9	460:10 462:20 463:25 464:5	angry 241:5 258:10,11,13,19 328:3 460:15,18 460:20 461:2,2,13 461:17	anybody's 230:11 anymore 128:5 133:22 166:21 198:5 201:17 206:19 263:10 295:3,11,23 307:21 310:18

anyplace	248:25 254:22	413:10 424:19 442:12 444:5	article	310:21 319:15 323:6	167:19 168:5 183:11 323:24
anyway	171:9 322:18 332:20 368:2	appropriate	337:7,24 341:19 400:16	409:15,17	assistants 179:19
apartment	267:15 274:13,15 455:6 469:7	approximately	411:15,19 412:24 414:15	associate 139:20	assume 132:16,16
apologies	227:17	april	223:6	175:8 322:24	175:8 322:24
apologize	142:22 198:24 220:16,18 272:12,13,14,19 273:2,17,21 280:21,23	arabic	284:16,24 286:2 304:21 305:2	358:11,11	assumption 427:3 427:5
apologized	300:21	area	403:3	assured 171:16	athletic 170:25
apparently	364:9	argue	artist 223:6	attached 195:5 294:5 413:22	attack 238:24
appeal	360:25 361:2,4,5,11,17,17 361:24 362:6 365:3 366:9,9 368:2,6 369:23	141:19	223:12 283:12 284:16,24 286:2	261:15	attacked 393:24
appear	341:2	196:6 230:21	304:21 305:2	attempt 193:3 220:13,14 255:25	attention 183:6,8
appearance	173:9 173:19	256:20 257:7	403:3	attempting 289:12 289:13	186:17 187:4,18
appearing	334:7 334:22	338:3 361:9 364:2	asked 135:22	attitude 348:16,18	349:2,4,18,21
appears	334:4	364:25 365:2	136:4 146:12	350:13,19,24	351:9,16,20
appointed	293:21	366:8 368:5,6	152:8 180:25	352:15	attorney 126:8,11
appreciate	385:19	369:22 474:18	205:4 232:6	127:25 138:2	146:10,17 147:4
approach	148:22 201:9 258:12,15 260:7	argued 139:9,17	255:16 269:17	160:7 175:23,25	146:10,17 147:4
approached	152:7 152:8 168:16 199:20 218:11,17 293:22 299:23 345:11 424:2,17 478:5	139:25 140:11	303:5 305:7,7	attorney 126:8,11 127:25 138:2	195:23,24 196:17
approaches	146:15 157:19 218:13 219:15	370:14,16,22,24	307:13 316:15	200:9 210:19	212:19 228:20
		371:3	asking 184:16	212:19 228:20	234:2 235:21
		argues 136:13	191:18,20 193:6,7	assault 183:15,16	assault 183:15,16
		arguing 372:25	269:2 272:13,14	184:2 286:12	240:16 252:15,23
		373:4 460:22	272:25 273:17,21	287:9	254:20,22 259:6
		argument 177:24	276:7 289:24	assaulted 183:11	261:7 263:17
		178:5 276:5 377:7	299:14,15 302:15	347:2 407:5	264:3,6 266:3
		450:18	315:17,19 319:6	asserted 206:3	269:3 292:14
		arrested 147:12	379:25 401:19	assistant 126:11	
		150:21 183:17	421:6 424:5,7,21	164:20 166:5	
		184:2 200:18,21	424:22 456:10		
		200:21 201:2	474:3,4 477:6		
		204:22 205:8	assault 183:15,16		
		208:6 231:19,25	183:16,17,24		
		272:24 275:8	184:2 286:12		
		283:21,25 284:5	287:9		
		307:3 347:12	assaulted 183:11		
		356:11	347:2 407:5		
		arrive 127:22	asserted 206:3		
		arrived 295:7	assistant 126:11		
		art 285:5 403:18	164:20 166:5		
		436:23			

[attorney - beer]

Page 6

293:24 301:5,8,9 310:20 318:12 319:16 322:2,22 323:5,25 341:5,6 377:5,16 388:20 390:7,11,12 394:19 396:22 404:3 409:12,15 409:17 410:18,24 411:2,12,14 412:22 413:16,24 414:10,21,22,23 415:13,14 433:4 441:6,16 451:18 451:22 454:2 458:6 464:17,21 472:23 475:23 476:4,19 479:3,10 481:2 attorney's 146:22 146:24 230:4 316:3 attorneys 126:10 132:24 133:6 139:10 141:22,24 165:10 166:10 172:19 173:2,18 179:18 196:9 198:14 225:12 239:21,24 255:2 255:21 259:5,25 276:24 277:6,7 288:2,18 289:2 290:20 296:19 301:18 308:2 314:23 315:9,14 315:19,21 334:7 395:17,20 411:25 426:25 430:12 450:24 451:5,17 452:13,18,21,25	458:16 459:12,15 460:4,8 462:14 464:3,4 469:9 470:9,10 472:17 475:4 attractive 217:7,9 audio 353:16 authority 356:20 356:25 384:14 385:9,22 authorized 356:18 avoid 205:17,18 205:19 436:20 aware 180:6 181:18 182:2 183:2 186:4 192:17 193:8 214:2 385:8,20 386:23 387:9,12	347:6 356:3,12 358:17 361:18 362:6 365:3,5 366:2,10,11,14,15 366:16,19,22,23 366:25 367:4,24 368:3,9,15 370:2 378:10,12 379:9 398:10 416:17 425:17 426:7 428:6 431:11 440:6,8,12,16 441:12 450:20 451:3,3,9,10 452:6 464:18,20 482:4 backing 421:18 bad 248:2 320:18 328:16,16,18 362:25 460:25 461:3 467:10,14 468:12,25 469:2,4 469:8,9 472:12 badgering 423:7 423:10 badly 461:15 bag 268:5 450:19 453:7,10,11 462:16,21 463:19 463:21,24 464:7 470:12 bags 451:7 452:12 bait 235:16 236:23 312:16,16 ballpark 165:22 banned 300:13 bar 296:15 bargain 440:15 barrage 400:23 401:7 404:10 407:6,7 344:13,14 346:20	barriers 308:25 barring 334:22 based 136:7 447:24 basement 327:24 basically 256:5 308:7 basis 133:10 146:12 165:25 187:5 225:9 235:5 235:8,9 238:4 412:7 434:21 472:17 bates 162:16 209:11 279:14 292:23 310:24 327:9 348:6 372:3 398:6 450:15 484:14,17,19,21 484:24 485:3,5,8 485:10,13,16,20 485:23 486:3,9,12 486:14,17,22,24 487:4,7,9 beach 219:9 beam 291:20 292:4 beams 281:5,15 292:15 beanie 248:14 beautiful 174:20 216:22,23 217:20 bed 465:11 beef 177:22,23 179:8 274:2 276:4 346:8,12 355:14 355:15 beer 263:23,25 264:2,4,5,8,8,12 269:16,20,20 270:4,5,25 271:11
b			
back 127:7 136:9 145:22 176:21 185:6 227:15 230:20,21 240:6,8 240:11 242:14 243:13 254:19 257:5,6,8 269:3 270:4 297:22 309:4,4,16,17,22 316:20 317:11,21 317:22 320:21 321:10,25 325:18 327:3 328:11 329:20,20,24 332:5,9,18 333:18 333:24 334:15 335:16 337:20 338:12,24 339:16 340:20 341:6,7,9 341:24 342:10 344:13,14 346:20			

272:3 456:18 457:17 458:5,13 459:16,16 460:12 461:25,25 463:3,7 463:8,13 464:11 466:10,21,25 467:22 469:19 487:9 began 168:17 256:3,23 257:12 373:10 begging 423:13 behalf 187:8 199:5 199:19 205:20 307:23 311:4 317:11 319:17 334:23 341:2 356:19,19,21 behavior 179:17 185:16,19,23 186:2 187:10,16 189:11 200:10 214:17 220:5 224:12 242:22 296:12 321:21 403:25 419:8,11 473:3,21 belief 264:16 434:22 believe 133:10 178:18 214:16 220:3 250:25 251:22 255:14 275:4,14 282:19 295:20,24 337:8,9 351:7 357:18,19 417:4,9 418:4 423:18,24 424:12 434:17 443:14,15 451:15 453:23 471:12	believed 420:9 421:14 424:2 believes 356:22,23 451:17 believing 410:23 belligerent 168:21 169:8 170:17,20 171:6 belligerently 168:17 belong 270:20 belongings 229:24 255:20 belt 285:8,11,13 285:17,19,24 belted 223:5 bench 155:22 230:9,9,25 231:2 233:11 241:14 248:18 249:14 255:19 256:16,17 257:7 360:21 433:19 452:14 453:8 benches 255:6,9 255:11 451:4,8 452:12 benefited 329:15 berate 256:3,23 berating 146:19 best 141:20 247:14 247:16,22 248:6,8 255:18 265:7,7 466:14 469:3 better 205:23 239:13 248:4 290:21 302:23 323:5 384:8 beyond 257:14 biased 434:18	big 161:4 170:25 205:11 319:4 455:3 bigger 161:10 billings 130:12 bills 421:12 423:14 439:7 bit 293:12 305:19 326:6 344:18 347:25 371:16 black 223:3,5 285:8,11,13,17,19 285:23 304:23 434:16,23 blamed 365:9 blank 452:7 blatant 204:18 213:2 bless 237:18 247:13,13 437:21 blindsided 233:21 233:23 235:14 244:4 250:20,21 263:6,7 281:18 290:7,14 309:19 block 217:24 blocked 306:2 blocking 219:14 306:5 blue 234:2 243:16 262:20 board 353:14,21 353:23 354:23 355:5,22 bodies 160:19 body 229:22 bonstein 247:16 247:18 248:7 book 328:8,13 bottom 145:12 302:22 311:19	326:23 449:20 457:13 box 454:11 boxing 223:13 284:17 286:4 305:2 454:11,22 brakes 226:10 break 226:5,20,24 293:13 309:22 310:2,2,3 313:3 329:19 396:24 425:24 426:5 breakdown 127:11 breakfast 139:15 172:21,24 173:12 173:15 314:25 395:22 396:11 476:12 breaks 131:14 397:17 breath 398:21 399:6 405:24 406:14 460:10 bribed 153:9 475:3 bribing 475:11,19 476:25 brick 282:5,14 briefcase 229:17 229:20 230:10 232:17,18,21 238:15,18 239:3,8 239:10 241:17,19 251:5,7,9 256:17 470:18,19,20 471:3,5,8 bring 144:12 154:6 155:7 187:18 241:23 323:7 331:13
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[bring - calvo]

Page 8

336:22 358:22 408:3 bringing 137:5 347:17 376:4 broad 380:23 broader 380:11 broadway 489:4 brodsky 126:14 226:12 480:3 brody 142:2,18 228:8,19 229:15 230:12,15 232:12 233:4 236:9,25 238:11 239:5 240:24 242:2,20 244:11 246:10 250:5,25 252:19 254:17 255:17,18 255:21 256:4,6,23 257:12,15 258:11 260:14 261:14,22 261:23 262:7,14 264:10,14 268:7 268:13,23 269:12 270:18,20 272:14 273:4 276:4 281:19 289:18 290:8 292:12 299:8,22 301:8,9 302:13,18 304:12 304:18 306:22 310:16 311:22 313:5,8,13 358:12 358:16 386:25 431:11 468:20,21 485:3 brody's 230:23 253:21 255:25 256:2 307:25 broke 278:3 282:3 282:3,5	broker 133:2 brokers 236:20 433:13,15 437:9 438:18 478:14,15 brooklyn 127:14 128:7,9,10,12,14 129:2 131:20,23 137:4,7,11 138:3 163:8 164:22 210:17 211:21 215:6 245:3 247:2 248:22 266:15,23 269:2 288:19 289:2 295:15 315:11 316:6,22 317:12,14 376:21 388:9 389:9 417:14 418:9 439:15 442:20 464:24 472:16 brother 167:12,14 167:16,20,21,24 brought 129:13,15 130:2 131:13 132:23 144:14 181:23 183:5,7 186:16 187:3 197:18 bruised 303:13 304:20,22 307:5 building 198:21 239:19 296:16 355:4 bump 149:11,17 150:14 152:5 153:14 156:2 157:10,25 158:12 160:17 224:23 bumped 148:24 156:2 157:15,17 157:24 159:20	bumping 149:8 159:15 160:25 bumps 416:11 bunch 210:3,5 294:6 351:24 395:7,10 396:6 bureau 210:17 341:3 bureaus 196:25 bus 196:12 bushra 209:8 218:6 219:13,18 219:20,21,23 233:17 234:14,16 244:21 246:10 251:18 263:14 264:25 293:4,19 294:8 382:21 485:12 business 128:21 133:2,3,6 141:25 152:21 163:24 164:11 196:12 198:17 199:25 215:7 276:16 277:8 290:17 316:6 331:8 366:18 479:17 businesses 437:18 buy 234:10 250:17 buying 139:14 172:20,24 173:11 173:15 234:11 250:18 314:25 315:22,23 395:22 396:11 476:12	calendar 133:23 353:23 354:4,6,7 354:13,14,18 355:22 360:24 call 133:22 136:21 138:23 146:16,16 147:4,7 235:21 236:3 237:9 242:16 247:21 250:8 260:18 269:8 270:17 407:5 410:17 412:21 435:10,18 435:19 451:24,25 452:10 453:20 463:18 471:6 called 141:16 146:9 152:8 160:6 164:17 168:14 175:20 200:12 203:15 248:13 260:19 262:15 307:17,19 308:16 316:25 328:6 401:11 405:12 408:23,25 409:2,6 441:20 calling 146:4,11 160:13 169:12 317:2,15 319:5 320:7,9 338:11 403:16 407:9,14 412:3 479:14 calls 218:9 219:11 317:4 318:20,20 calvo 134:6 160:2 270:22 271:6,6 272:5 301:3,16,25 302:7,15 312:18 312:22 313:6,20 370:8 442:13,14
		c	c 126:2 243:20 488:2,2 cab 128:19 357:16

[calvo - capogrosso]

Page 9

443:13,14,15	194:1,13 195:1	282:1 283:1,8	366:1 367:1,9
444:7 469:25	196:1 197:1 198:1	284:1 285:1 286:1	368:1 369:1,17
477:12,15	199:1 200:1,11	287:1,25 288:1	370:1 371:1,12
calvo's 343:7	201:1 202:1,2,19	289:1 290:1 291:1	372:1 373:1,2,8,16
camera 369:9	203:1 204:1,24	292:1,20 293:1	374:1 375:1 376:1
459:5,6,7,8,15	205:1 206:1 207:1	294:1,20,22 295:1	376:3,17 377:1,6
capogrosso 125:5	208:1,19 209:1,19	296:1 297:1,5	377:16 378:1
125:16 126:4	210:1,19,23 211:1	298:1,6,12 299:1	379:1 380:1,10
127:1,7,16 128:1	212:1 213:1 214:1	299:10,13 300:1,8	381:1 382:1 383:1
129:1 130:1,8	214:11,15 215:1	301:1,5,7,10,16	384:1,21 385:1,7
131:1 132:1 133:1	216:1 217:1 218:1	302:1 303:1,5	385:18 386:1,15
134:1 135:1 136:1	219:1,25 220:1	304:1 305:1,4	386:17,19 387:1,8
137:1 138:1 139:1	221:1,14 222:1	306:1 307:1,11	387:21 388:1,2
140:1,16 141:1	223:1 224:1,8	308:1,6 309:1	389:1,12 390:1,18
142:1,23 143:1,18	225:1 226:1,8	310:1,10 311:1,25	391:1 392:1,9
144:1,13 145:1,9	227:1,24 228:1	312:1,3 313:1	393:1 394:1 395:1
146:1 147:1,18	229:1,16,18 230:1	314:1 315:1 316:1	396:1 397:1,10,19
148:1,20 149:1	231:1 232:1 233:1	316:11,14,17	398:1 399:1 400:1
150:1,8 151:1	234:1 235:1 236:1	317:1 318:1,9,14	400:24 401:1
152:1,14 153:1	237:1 238:1,12	319:1 320:1 321:1	402:1 403:1 404:1
154:1 155:1,6,10	239:1 240:1 241:1	322:1 323:1,8	404:19 405:1
156:1 157:1,2,9	242:1,21,24 243:1	324:1 325:1 326:1	406:1,3 407:1
158:1 159:1,6	244:1 245:1 246:1	327:1,4,21 328:1	408:1,2,19 409:1
160:1 161:1,8	247:1 248:1,11	329:1 330:1 331:1	409:10 410:1,14
162:1,8 163:1,5,20	249:1 250:1,24	331:19 332:1,25	411:1 412:1 413:1
164:1,15,20 165:1	251:1 252:1,6	333:1,10 334:1,2,4	414:1 415:1,19
166:1 167:1 168:1	253:1 254:1 255:1	334:8,22 335:1,18	416:1,19 417:1
168:14,15 169:1	255:16,22 256:1,2	336:1,3,23 337:1	418:1 419:1,14,23
170:1,24 171:1	257:1,11 258:1	338:1,23 339:1	420:1,4 421:1,2,21
172:1 173:1,25	259:1 260:1 261:1	340:1,17,25 341:1	422:1,4,21 423:1
174:1 175:1 176:1	262:1,8 263:1	342:1,11,25 343:1	424:1 425:1 426:1
176:10,11 177:1	264:1 265:1,15	343:19 344:1,6	426:13 427:1
178:1,7,21 179:1	266:1,12,24 267:1	345:1 346:1 347:1	428:1,19 429:1,18
179:12,14 180:1,9	267:24 268:1,20	347:17,21 348:1	430:1 431:1,13
180:21 181:1,7,17	269:1,14,17 270:1	349:1 350:1 351:1	432:1 433:1,7
182:1 183:1 184:1	270:17 271:1	352:1,22 353:1,15	434:1 435:1 436:1
185:1 186:1 187:1	272:1 273:1 274:1	354:1 355:1 356:1	437:1 438:1 439:1
187:20 188:1,10	275:1 276:1 277:1	357:1 358:1,5,21	440:1 441:1 442:1
188:19 189:1,20	277:16 278:1	359:1,7 360:1,6	442:4 443:1 444:1
190:1,5,21 191:1	279:1,6,9 280:1,6	361:1 362:1 363:1	444:12 445:1,3
192:1 193:1,4,17	280:21 281:1	364:1,10,14 365:1	446:1 447:1,4

[capogrosso - chris]

Page 10

448:1 449:1 450:1	393:4 395:2,3,4	135:21 136:11	462:14,16,17,17
450:14 451:1	396:5 413:6	152:23 248:10	462:19,22,23,25
452:1 453:1 454:1	414:13 437:16,24	256:20 259:20	462:25 463:16,17
455:1 456:1,16	438:2,15,19,24	317:15 370:14,16	463:20,25 464:2,5
457:1 458:1 459:1	441:4	370:23 371:3	464:6 470:9,12,12
460:1 461:1 462:1	cared 140:9,10	412:17 437:9	470:13,16,22
462:5 463:1 464:1	169:2 437:14	460:23 465:15	471:5,6,10 473:12
465:1 466:1 467:1	438:13,14	466:11,13,13	chamber 432:22
468:1 469:1,17	careful 330:14	469:2 475:24	chance 151:13
470:1,24 471:1,11	carefully 260:3,4	476:4 479:18	220:16 247:16,18
472:1,24 473:1,18	cares 394:24	cash 173:17 277:3	247:20,20 279:23
474:1 475:1 476:1	carried 459:2	277:8 282:21	280:4,7,9 312:2,15
477:1 478:1 479:1	carry 362:21	314:24 315:16	312:22 341:20
480:1,12,17 481:1	case 125:3 128:2,3	395:21 396:10	384:12 385:14
481:20 482:1	128:7,15,17 129:5	475:8 476:11	386:4 440:13
483:1,9,17 487:4	132:12 136:13	catch 279:7	461:11 465:22
488:7 489:5,6,21	137:13,17 139:10	catholic 237:16	466:6,6,18
capogrosso's	139:17 140:2,11	cause 269:10	change 220:24
214:16 261:15	140:13 142:17	422:8,15	489:8
car 217:24 218:8	153:2 189:4 191:7	caused 136:7,24	chapter 328:13
218:11,12,14,14	191:7 196:4	452:23	characterizing
218:15,15,16,17	230:21 246:9	center 311:21	204:7
219:7,11,16,16	257:7 319:4,25	centers 316:21	charged 147:11
274:17 297:24	320:17 321:13	certain 182:13	231:18,24 272:24
298:2 361:22	331:16 338:4	285:20 411:24	283:20,24 284:5
362:4,9 363:6,15	341:21 344:21	certainly 226:13	307:2
365:22 367:8,15	353:24 354:24	certify 488:6,11	chasing 276:18
368:14,18,24	355:7 359:21,23	cervoni 163:6,22	chauney 247:19
373:22 375:12	361:10 364:2,5,8	164:16 168:12	248:8
377:13 379:17,17	364:15,25 365:2,9	172:4 174:2,13	check 145:3
382:4,13	366:8 368:4	183:3,22 214:21	355:22 482:21
card 196:12	369:22 380:12	217:8 224:10	checking 369:12
199:25 366:18	383:12 388:4	484:19	choice 247:25
cards 198:18	413:13 414:9,11	cervoni's 191:7	248:2
care 139:25	426:17 446:14	chair 240:11 451:2	choose 260:2,4
140:20,22 182:20	449:4 456:4,9	451:3,3,9,10,12,14	chose 129:23
237:15,16,19	461:7 474:17,19	451:16,19 452:5,7	378:19
246:17 247:12	474:23,25 489:5	452:7,8,8,9,16,17	chris 311:6 319:17
250:8 259:22	caseload 476:3	452:20,21,24	320:20,24 321:4
384:6 391:19	cases 128:20	453:12,13,14,18	321:18 323:4
392:5,14,17,18	134:19,19,20,20	453:18 454:16	324:9,10 339:15

[chris - column]

Page 11

339:21,25 413:16	298:2 330:22,23	169:2,4 171:13,18	394:18,24 395:5,9
414:4,23 485:16	330:23,24 348:4	175:17,18 176:8	396:6
485:18	348:15,18 349:2,3	185:8 196:11	clips 395:6
christmas 172:20	349:20,21 350:7	199:19,22,24	close 193:12 215:7
173:3 234:8,10	350:12,13,19,24	200:7 205:21	251:25 267:14,18
235:15 276:8	351:9,15,15,19	235:24 237:5	267:20 274:14,19
314:24,25 315:16	352:15 372:20,22	245:11,12 246:23	284:4 331:12
chuck 464:13,14	376:20,24 377:4	247:3 287:21	448:14
church 330:21	390:3 475:4,5,8,9	309:8 319:4	clothes 205:3
331:5	475:10,20,20,23	362:17,25,25	club 437:23
cindy 215:16,16	477:25 478:25	365:7 382:6 435:5	clubs 266:21
215:19,19,21	479:5 482:18	451:25 452:2	coat 451:23
216:5,6,7,21,23,25	clerk's 152:23	471:7 472:11	cocaine 465:10
216:25 217:5,7,11	clerks 139:12	client's 140:13	coffee 230:7,8,11
217:19 225:23	141:4,5,6,11 146:7	clients 130:18,19	230:13,14,15,19
344:16 356:5	146:24 151:25	131:20 132:20,20	230:22,24 231:4
cindy's 216:22	152:22 153:10,21	133:13,17,18,23	233:7,9,14 240:10
circumspect 331:9	156:9 163:15,24	133:24 134:3,11	240:11 241:6,7,11
circumstances	172:18,19 173:3,8	134:18 135:25	241:24 242:3,6,7
249:5 314:4	173:10 174:4,25	139:7,12,16 140:9	243:24 244:6
civilized 242:22	177:25 179:9	140:10,23 141:20	250:21 256:10,12
claim 130:24	182:24 184:8	165:3,5 167:2	256:13,16,18,19
387:10 388:3	208:21 209:8,13	179:18 187:8	256:25 257:4,5,6
claimed 186:6	209:17,22 210:16	196:6,9,10 199:10	258:17 264:11,12
303:10	225:21 229:12,14	201:24,24 218:9	268:11,22 269:4,8
claims 130:22	249:20 297:24	222:17,18 237:21	269:24 276:9
305:11	312:11,13 314:20	238:2,3 246:22	289:18,20 290:25
clarify 189:24	315:7,12,15 316:7	317:13,14 319:5	292:12 301:7
191:17 300:11	343:25 344:16	320:5,6,9,11 321:4	304:7,10,15 314:8
clean 466:18	349:5,23 350:20	338:11 341:2	coffee's 230:25
clear 193:5 245:24	351:5,24 376:21	365:17 374:21	241:21
373:7 393:2	390:9,15 391:14	423:15 430:11	coincidence 289:6
clearly 419:21	391:24 394:11,12	432:13 435:3,4	colleague 288:14
clerical 186:15	395:8,10,14,21	439:7 443:6,8,9	288:15,22
234:18 293:22	396:7 475:12	460:23 461:15	colleagues 288:2,3
clerk 138:24	476:11,11,13,25	479:11	288:4,6,8,17
141:12 146:6,21	478:18,19,20,20	clip 389:19,20	collect 356:19,20
148:5 163:7,11,14	478:22 479:16	390:4,4,8,11,20	361:4
175:17 177:22,24	client 128:10	391:7,17,19,21,23	collecting 479:15
178:6,16 179:9	136:14 142:9,12	392:18,19,21	column 282:4
216:4 297:24	142:16 153:22	393:5 394:9,13,16	

[come - contemporaneous]

Page 12

come 211:25 230:20,21 233:15 233:17 242:5 251:16 257:8 270:4 271:6 277:2 284:3 287:24 309:22 314:10,12 332:5 337:20 388:19 402:4 418:22 430:11 434:19	compel 425:19 compensatory 127:12 competition 139:11 competitive 132:25 133:6 141:25 207:20 276:16 277:8 282:19,20 290:16 complain 347:11 392:5 412:19 418:24	446:16,18,22 447:9,12,21,22 448:6 449:2,8 450:8 complaints 142:8 142:12 143:2,8,14 143:20,22 153:20 153:24 154:3 179:8 181:22 186:13 189:6,10 189:16,18 191:12 191:21 192:5,12 192:21,22 214:22 223:24 224:11,14 224:16 225:6 234:17,21 235:11 237:4 287:20 382:23 387:3 429:22 430:23 441:20 479:11	411:23 412:25 414:16 415:12 condoned 201:7 condoning 206:22 conduct 193:9 280:25 296:17,18 334:6,8 339:5,11 352:20 391:21 412:13 414:19 473:2,14 coney 196:24 confirmation 154:24 confirmed 356:8 conflicts 185:21 452:18 confront 205:19 212:15,15 confrontation 215:4 218:20 223:15 346:5 confrontational 261:16 confrontations 214:18,24 215:3 223:10 connected 396:2 connection 392:21 411:12 consider 425:18 consist 327:22 constant 410:2 constitutes 210:20 constitution 386:7 construed 331:10 contact 149:24 160:19 414:18 contacted 316:14 contained 255:20 contemporaneous 447:6
comes 185:9 238:20 241:25 242:14,16 346:20 361:12,15,15 364:20,22 387:19 402:5,6,6,7 416:15 416:16 452:6,15 463:22	complained 186:10 240:24 242:21 315:25 409:21,22 410:8	223:24 224:11,14 224:16 225:6 234:17,21 235:11 237:4 287:20 382:23 387:3 429:22 430:23 441:20 479:11	
comfortable 185:18	complaining 198:15 395:9	441:20 479:11	
coming 178:23 272:5 282:24 283:12 313:6 362:20 379:13 416:24,24 417:17 436:16	complaint 129:16	complete 297:25	
comments 176:13 281:7	144:5,7 151:9 153:22 156:6 162:20 178:22 179:6 183:3 186:16 188:24 190:24 191:2,8,15	298:5	
commission 489:25	completed 328:18		
committing 465:10	completely 456:7		
commotion 175:7 280:18	completion 426:21		
communicated 310:19	complicit 416:7		
community 127:15 128:13,15 129:2 131:5,21,23 134:17 295:16	442:17 443:2 444:24		
	comply 255:19		
	concerned 301:4		
	407:3 452:3		
	concerning 376:10		
	387:23 392:24,25		
	415:9		
	concerns 437:7		
	concludes 483:7		
	concrete 281:4,14		
	282:15		
	conditions 322:17		
	332:13 335:11,25		
	336:4,18 341:10		

[contemporary - courtroom]

Page 13

contemporary	481:3,5,10 482:2,3	corroborate	249:6
443:22,25 482:24		469:21	327:14,22 328:19
contend	127:20 130:3	corroborated	328:21 329:16,22
contention	134:21 135:16	254:3	329:25 332:4,12
142:25 143:21	140:8 145:19	corroborates	333:21 335:10,12
384:14	153:12 155:15	253:21,25	335:21 336:17,19
contingent	156:7 157:16	corroborating	338:5,6,10,14
continue	161:17 162:16	151:2 157:15	339:9,22 344:14
continued	168:8 170:19	corroboration	356:4 403:7
132:4,6	194:2 207:17	151:2	426:22 427:12
132:7,12 157:12	209:12 213:19	corrupt	428:8,10,15
159:25 171:20	224:12 228:11	418:22	440:17 461:13
241:2 257:14	238:16 251:2	419:3,6 437:19,19	court 125:2 138:6
377:17 378:8	252:10 253:13,20	438:3,4,21,23	138:7,9,14,18,19
379:9	256:7,21,23	cost	138:20 144:18
contractor	264:18 265:19	263:20 335:21	151:8 154:8 162:5
control	268:18 269:19	339:22,23 440:17	couches 327:25
442:2,3	270:24 279:15	174:8 194:8 221:2	counsel 131:3
conveniently	281:24 292:24	133:25 144:21	243:13 319:20
417:12,14 442:19	297:16 307:15	226:17 383:21	337:24 338:12
conversation	310:25 311:5	counselor	357:14 360:13
191:11 200:5	314:5 319:15	200:19	364:21 388:3
229:3 283:7	323:13 327:9	380:22,24	480:9
294:21,24 295:25	333:2,12 334:15	counter	courtesy 255:25
296:3,20 297:9,11	334:24 348:6	151:25	257:16
297:13,17,19	353:7 357:7	152:23,25 163:12	courthouse 128:25
298:9,14,21	359:17,21 372:3	163:25 164:12,18	301:13 330:20
299:20 300:5	389:22 397:15	168:16 175:10	354:22 355:16
316:24 318:10,16	398:7,14 402:24	179:14 215:14	363:2 370:10
318:22,24 365:15	404:21 408:11	377:20 479:16,19	375:21 387:7
393:21 400:4,10	423:23 427:2	country	395:6 454:24
432:5 433:8	431:19 442:8	489:4	courthouses
conversations	444:13 447:24	142:12	353:24 375:8
164:10 237:11	450:15,19 457:20	197:13,15 206:4	courtroom 139:23
430:13	480:15	286:6 319:13	140:3 146:5
cool	corrected 300:20	326:18 345:9	164:13 165:7
270:23	correspond 411:6	408:23	course 206:4
cop	correspondence	coupled 281:6	196:4 230:21
205:10 347:11	410:20 411:5	232:2 238:10	233:10 240:7
461:6	413:20	244:4 245:19	241:23 247:15,23
copies		263:19 269:6	248:9 256:20
483:2		270:15 320:3	261:8 265:8 331:3
cops		321:6,16,17 322:4	331:7 340:13
347:9,10		322:12,20 324:18	354:10 360:19,20
copy			
191:19 193:7			
480:13,14,19,20			

[courtroom - deal]

Page 14

361:7,9 364:2 375:5,7 379:4 382:7 461:12 courts 334:7 426:23 covered 466:9,11 466:12 469:2 covering 475:24 476:4 coworkers 179:17 crazy 351:24 399:24 401:8 452:16 created 232:13 233:20 235:3,12 creates 444:5 criminal 134:19 306:18 cross 309:14 345:8 416:10 435:24 437:4 crossed 263:24 crosses 308:24 crowd 301:12 culture 260:15 cunt 242:25 243:18 260:19 262:9,15 290:24 cunts 264:18 cup 230:7 241:6 241:11 242:3,9 243:23 289:18,20 290:24 292:11,11 301:7 304:7,10,15 311:23 current 266:25 currently 129:17 curse 169:15,25 170:3,6,10 174:6 174:12 181:3,9,10 185:3,4 269:18	394:3,4 472:18,19 cursed 169:13 171:23 180:24 184:24 202:7 472:14 curses 361:20 472:15 cursing 169:20 171:9,20 172:6,7 173:23 393:24 407:8 471:15 customer 164:18 392:9 cut 142:23 284:25 361:21,25 362:2,7 363:5 364:23 367:7,14 368:13 368:17,22 373:21 374:19 375:10 377:12,25 378:17 382:4,13 387:5 388:13 456:8 cutting 365:20 cv 125:3	danielle 134:6 160:2 175:6 270:22 301:3,25 302:7 311:21 312:17,18 370:8 442:13 469:24 477:12,15 darn 395:5 467:9 date 146:2 155:5 156:25 163:4 194:12 210:13 228:18 243:22 252:5 266:11 cut 142:23 284:25 361:21,25 362:2,7 363:5 364:23 367:7,14 368:13 368:17,22 373:21 374:19 375:10 377:12,25 378:17 382:4,13 387:5 388:13 456:8 cutting 365:20 cv 125:3	178:25 184:9 206:5 217:11 219:8 226:22 230:12 242:19 252:18 253:2 254:13 263:8,21 278:5 281:2 282:23 289:9 290:7,15 291:23 295:6 302:4,14 314:7 326:7 337:23 345:9 353:22 361:12 364:19,20,21 365:20 367:25 368:2,9 381:20 397:3 402:17,21 405:20 406:20 432:22 445:2 451:21 452:11 458:14 462:4,15 463:15 465:12 469:7,23 470:7,8 471:4,24 472:2,8 483:19 489:23 dated 333:17 336:9,10,13,16 448:23 485:15,18 485:23,25 487:2 dating 215:22 216:5 217:4 218:25 250:16 dave 428:21 david 344:6,22 345:4,10 352:25 353:5 354:3,4 418:6 419:17 429:7,14 432:9 486:11 day 146:16 161:14 163:13 164:2 166:2 176:11
d			
da 152:9 daily 165:25 187:5 damage 130:5,9 130:14 131:2,9 136:8,25 137:8,12 138:11,25 damaged 128:4 132:11 133:20 134:15 138:2 damages 127:11 127:13,13,18 249:11 damn 169:4 391:23 394:12 daniel 270:21			

[deal - dmv]

Page 15

414:22 415:4 453:15 471:24 dealing 211:18,21 237:25 238:2 246:25 248:10 293:24 365:17 dealt 128:12 414:23 435:2 december 125:12 228:9 229:5,5,6 269:3 278:5 295:3 297:2 298:23 299:16,21 300:12 301:2 344:15 468:6,21 483:10 489:6 decency 263:24 decide 131:9,10 138:5,8 446:7 decided 233:14 decision 185:7 320:18 460:19 461:3,6 467:17 decisions 460:20 decorum 256:3 defamatory 288:10 defend 221:23 232:20 238:23 275:10,14,15 339:13 340:9,12 341:13 383:13,24 385:14 386:4 defendant 363:12 425:8 defendants 125:10 125:17 126:10 131:11 323:12 483:9 definitely 173:21	deli 233:8,8 deliberately 353:13 354:15,20 355:2,10,21 357:5 demand 458:18 demanding 385:11 385:23 denied 431:6,20 431:24,25 denies 431:19 deny 161:13 265:9 270:14 department 200:15 316:20 depend 443:8 depends 165:18 deponent 393:11 489:6 depose 174:18 deposition 188:23 190:22 226:22 248:12 350:2 397:13 431:24 432:2 448:13 480:12 483:8 489:6 describe 139:4 description 484:12 deserve 419:3,7 destroy 447:11 destroyed 447:14 447:23 448:2 detail 416:3 details 187:15 detectors 362:20 369:11 375:9 389:4,5 determination 316:16,18 determinations 131:16	determine 129:10 316:19 diantha 194:6 195:10,16,17 199:12,12,14,15 201:14 206:22 397:23 398:3 407:5 412:4 472:14 484:21 486:24 die 445:2 died 267:3 467:15 difference 130:21 246:15 247:9 different 132:2,9 212:4 246:24 381:4 392:22 427:11 435:4 digital 481:10,16 482:10 digitally 481:22,23 481:25,25 dimensions 255:12 direct 220:25 221:2 457:6 directed 260:14 399:7,17 403:24 406:15 437:2 direction 241:8 directly 196:25 437:3 disagree 290:13 disavowed 340:5 discontinuance 337:5 338:17,20 486:5 discovery 358:11 448:14 discrepancies 289:9,10	discuss 189:9 291:11 293:11 480:4 discussed 223:24 236:24 336:6 discussion 397:12 dislike 259:21 dismiss 143:15 195:4,8 388:3 dismissed 386:24 387:10,15 display 179:16 dispute 308:11 332:17 dissolute 469:6 distinctly 254:14 district 125:2,2 138:20 146:10,17 147:4 160:7 316:2 disturbed 301:13 dmv 153:4 177:22 206:21 209:11 210:6 232:22 directed 260:14 277:25 278:9,21 281:6 292:24 304:25 310:19,24 direction 241:8 315:3 322:25 directly 196:25 323:12 334:19,23 339:4 343:7 disagree 290:13 347:15 348:6 disavowed 340:5 353:20 360:9 discontinuance 362:20 372:3 374:18 376:21 384:23 385:3 discovery 358:11 398:7 404:20 discrepancies 405:21 406:22 410:16 411:13,15 413:13 414:9
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[dmv - employment]

Page 16

417:12 426:23,25 427:25 428:6 440:6 442:2 444:5 450:15,24 457:20 465:19,24 476:20 478:22 484:24 485:13,16,21 486:10,17,25 487:7,10 docket 238:2 354:24 355:6 443:9 482:16 doctor 327:13 document 145:10 145:18,25 154:6 155:18 162:2,7,9 162:11,15,19 193:12,18,21,24 194:4 208:25 209:3,6,10,20 210:15 227:25 228:2,6,10,15 252:7,9,13 265:23 279:4,10,13,18,21 292:21,23 293:3 293:12,17 310:12 310:14,24 311:3 323:16 327:5,11 331:14,18,20,21 331:22,23,24 332:2,7,8,22,23,25 333:22 336:22,24 337:6 340:19 343:2 347:18,20 348:5,10,11 352:23 353:6,9 359:8,12,16,20 371:9,13,14,22,23 376:4,5,8 380:15 389:13,14,17 396:16 397:20,21	398:2,6 446:4 449:18,19 450:2,7 456:11,17,21,24 457:9,11 document's 457:19 documentation 443:23,25 documented 248:25 443:18 documents 380:13 380:20 381:3 447:23 457:4 doing 135:6 152:21 153:4 166:11 173:4,18 177:6 181:13 184:14,17 186:14 186:15 196:18 197:18 198:6,7 199:2,11 201:6,15 217:13,14 225:23 236:19 248:7 277:19,20 316:5 347:12 349:19 362:14 378:2,3 390:6,23 391:12 391:24 430:17 432:15 459:10 478:16,25 479:16 dollar 290:19,19 door 373:17 374:6 378:9,22 432:22 dozen 255:2 dozens 134:18 drank 266:22 455:5,7,15 drink 455:15 drinking 266:17 266:23	drinks 455:7 drive 267:11,12 274:15,18 279:12 driver 357:16 437:20,21 driver's 168:13 drivers 128:19 drove 455:19 drug 469:5 drugs 365:12,12 465:6,7,15 466:15 467:15 ducks 309:2 due 385:25 386:6 386:8,23 387:9 388:3 duly 488:8 duress 257:16 duty 175:16,17,21 176:7 185:8 dv 257:18 e	easy 134:23,25 135:3,11 454:8,11 454:14 economic 136:6,24 eesha 398:15,16 398:18,18,22 399:3 400:16 401:12,13 407:16 450:6 453:21 454:4 460:7 473:7 473:7 effect 405:5 462:24 egregious 475:2,6 eight 255:5,9,10 313:11,11 314:2 423:11 450:25 either 210:4 219:8 225:16 241:14 261:21 267:9 337:17 338:2 470:11 471:4 elizabeth 409:11 410:15,23 413:3 413:12 487:3 else's 291:3 embarrassing 198:12 emig 235:7 emotion 328:9,10 328:12,24 emotional 329:2 employ 165:12 167:18,25 employed 168:7 488:12 employee 215:6 employers 136:3 employment 185:18
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[empty - exhibit]

Page 17

empty 242:9 292:11 304:7,10 304:15 452:7	esposito 248:3 esq 126:4 established 340:19	361:25 443:6 exactly 145:16 146:23 166:23	276:7 288:13 290:9 302:18 314:8 329:8 351:2
encourage 349:16	estimate 165:23 285:22	169:22 176:16 180:13,16,19	exhibit 127:8 144:14 154:10
endear 173:7,10 174:24 182:24 225:21	estimated 127:18 estimation 262:18 et 125:9	197:14 202:25 203:2,3,7,20 204:5 204:13,20 205:24	155:4,7,11 156:22 156:24 162:5,25
ended 337:7	ethic 334:10	208:11 220:12,12	163:3 168:12
ends 480:23 483:6	ethnicity 260:15	221:10 240:12	193:15 194:9,11
engage 199:17	eugene 168:3	254:11 260:20	208:13,17,18,20
engaged 377:6	event 137:23	263:2 264:20	210:9,12 224:5
engaging 283:7	185:20 296:10	271:5 274:22	226:2 228:15,17
english 165:6	297:12 298:23	294:11 296:24	251:22 252:4
enjoys 177:2	302:8	308:18,19 312:8	265:13,16 266:8
enraged 242:24 283:9	events 196:23	313:13,14 367:23	266:10 280:12,15
ensued 215:5	256:6 303:6 305:6	393:3,5 444:21	292:7 293:7,9
entered 196:5 255:16 440:10	305:8,14 308:11	463:15 471:23	310:11 311:9,11
entering 152:24 437:10	310:15 311:15	examination	319:10 323:8,9
entire 301:13 304:21	365:24 447:7	125:15 127:4	326:7,10,10,17,20
entitled 466:5	eventually 248:3	484:5	327:17,19 331:18
entitlement 465:23	409:6 413:7 465:4	excellent 234:20	333:6,8 336:7
environment 282:20,21	everybody 196:20	exchange 311:22	338:18,21,24
envisioned 286:10 287:7,11	204:16 213:21,22	exchanged 344:8	340:18 342:24
epi 142:10	246:18 260:5	exclude 290:5	343:15,17 348:21
equal 426:24	276:17 279:23,25	excluded 291:5	348:23 352:18
errata 489:2	291:17,18 309:24	excluding 290:2	359:3,5 360:2,4
escalate 276:9	317:2,3,16 330:5	exclusion 404:5	371:11 372:7,9
escalating 215:3 377:8	472:10 473:25	excuse 229:19	376:13,15 383:17
escorted 308:13	474:2	230:14,15,16	396:16,18 407:21
especially 128:7 134:24 206:9 468:5	everybody's 271:7	231:3,4 238:13	407:24 408:15,17
	354:9	243:23 244:5,9	426:14,18 456:12
	everyone's 303:3	250:20 251:13,13	456:14 457:24
	evidence 133:10	251:15 252:20	458:3 484:13,16
	386:5,11 444:13	254:17 256:13,24	484:18,20,23
	445:5 477:10,11	257:2,10 258:17	485:2,4,7,9,12,14
	477:13,16	261:23 264:12	485:17,22,25
	exact 129:12	267:25 268:6,7,11	486:4,6,8,11,13,16
	166:14 176:17	268:14,17,21,24	486:18,20,23
	221:9 222:9	269:3,23 270:2,8	487:2,6,8
	240:12 318:22,24	270:10 271:21,24	

[exhibits - filed]

Page 18

exhibits 145:5 154:20 326:6,14 326:18 342:15 482:15 484:11 exist 292:9 expect 440:3,7 expedite 439:24 expel 406:8 421:16 471:18 expelled 132:14 268:25 269:5 296:5 298:20 299:3,17 308:9 317:3 404:21 405:3,9 419:18 420:10,22 421:9 422:9 423:21 473:4,23 474:14 475:16,22 476:9 expelling 476:25 expense 130:11 335:20,22 experience 377:19 expires 489:25 explain 134:2 138:3,7,8,10,12,15 138:17 232:11 295:13,17 316:15 394:14 401:2 408:21 explained 224:19 224:24 296:11 460:11 explanation 138:22 175:15 317:16 expressed 264:16 445:21,25 446:16 447:20 448:5,25 expression 286:16 317:25 405:13	expulsion 339:7 405:18 416:22 427:18 428:2 extending 257:15 extent 164:13 eye 304:23 436:9 436:12 eyes 382:12	f f 428:21 485:5 488:2 face 149:6 159:17 248:14 283:13 291:3 301:19 303:10 309:2 345:9,13 357:25 410:6 416:8,16 432:16 facility 306:14 fact 200:8 220:21 247:11 254:4 255:21 257:15 259:11 264:17 271:20 280:22 289:17 290:13 294:13 315:24 322:15,19 342:15 342:20 359:15 399:19 427:15 430:3 facts 289:21,24,25 291:10 292:10 294:5 307:18 312:13 364:5 368:10 370:6,8 375:18 379:3,5 382:18 385:15 fair 187:19 188:2 188:4,6,17 225:5 341:20 342:10 384:12 386:3	461:11 466:6 fairly 342:7,17 false 288:10 477:18,19,24 478:3 familiar 382:21 far 253:5 255:24 271:15 farooq 324:2 340:24 485:20 486:3 fast 148:23 456:24 457:2 fat 455:8 fatigued 402:16 fatiguing 402:17 fault 136:16,16 favor 141:3 475:9 476:12 fear 179:15 180:13 206:11 301:21 feared 179:20 fearful 180:16 181:11 223:7 330:17,19,25 features 311:14 february 353:11 358:6 390:2 federal 138:6,19 388:2 fee 142:13,14 339:25 344:20,22 344:23 356:3,20 361:5 410:9 479:15 feel 129:8,24 182:11 185:17 203:9 210:18 212:22 213:8,13 213:22,23 220:21 221:4,18,20,21
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[files - fuller]

Page 19

files 241:20 459:9	254:24 261:17,20	foot 255:7,11	friggon 350:25
filng 234:22	261:25 264:7	foregoing 488:7,9	frighten 203:4,5
413:24 477:19	269:25 275:8	forever 402:3	front 158:6,17
finally 204:23	278:2 291:8	forget 285:21	199:21 230:13,24
find 134:23,25,25	293:21 302:8	362:2	264:11 291:2
218:25 409:4	303:21 305:15,16	forgot 167:23	303:9 311:24
413:8	311:19 325:15,16	240:18,19,20	336:2
finds 361:13	333:19 340:23	252:23 254:21	fuck 142:3 230:16
fine 219:2 237:17	346:4,17,17,18	320:5	231:4,20 232:14
324:3,4 332:14	347:6 351:16	form 283:12	233:4 243:15
344:4 388:5 426:7	352:9,9 356:17	formal 448:17	245:8 251:14
441:9,11 442:3	358:9 361:3,19	format 481:8	252:21 257:2,10
457:18 461:8	365:13 366:7	forward 154:5	258:12,15,20
482:11 483:4	404:8 429:14	foul 296:14,22,24	260:17,22,25
finger 149:14	464:17,25 467:8	297:6	261:23 262:16
157:22	471:20	found 217:3 356:3	268:14 269:9
finish 156:12	fish 455:7	362:12 363:16	270:2,11 272:15
157:13 172:23	fist 281:4	389:6 409:7 411:5	272:20 273:3,22
173:14 180:10,12	fists 283:10,11	465:11 469:7	277:23 281:19
186:21,23,25	fit 255:13	four 230:5 241:14	288:13 290:9
187:13,21,24	five 129:14,18,20	287:25 288:25	299:9 302:19
188:3,9,12 189:14	129:22 130:2,4,6	301:24 325:15	304:19 306:22
189:21,23 214:12	130:11,13,15,19	345:15 408:7	308:3 329:8
234:6 242:2,6	131:17 226:20,24	409:5 440:23	345:13,14 358:2
257:23,24 295:21	255:6,10 425:24	471:14	366:3 367:10,17
304:9 317:7	426:5 451:2	fourth 226:21	410:7 416:8
335:19 346:16	482:14,17	frail 455:5	432:16 468:22
366:13 386:20	flirting 216:18,19	free 153:6 341:24	 fucker 453:23,25
finished 187:25	216:20,24,25	freedom 286:15	453:25 472:8,10
-fired 197:25	217:6	317:25 401:11	472:11
firm 135:14,15	floor 206:21	405:12	 fucking 242:25
first 135:2 143:7	229:18 282:22	friday 442:18	243:18,19 250:9
143:16 144:12	410:4 420:24	483:10	260:18,19 262:8
156:20 167:21	421:25 422:11,24	friends 167:23	264:17 270:18
176:23 178:21	432:11 434:9	168:10 174:16,17	290:24 458:18,19
188:22 193:2	439:5	174:23 258:25	462:3,7
194:13 195:6	followed 297:24	260:3 266:15,16	full 302:2 397:14
204:11 224:20,21	298:2 477:25	267:10 274:3,13	fuller 194:6
233:23 240:4,13	following 297:23	276:13,16,19	195:11,15 196:21
241:12 242:14	373:10	465:5	199:20 206:22,24
243:18 252:20			207:5,7 398:9

[fuller - give]

Page 20

402:13 405:7,9 407:21 412:4 472:14 484:21 486:24 fuller's 199:22 207:2 fun 329:24 434:24 434:25 funny 274:4,5,5,10 274:20 279:20 further 298:19 299:2 306:3,5,6,6 306:7,8,9 377:25 378:14 427:17,25 479:23 488:11 future 130:22 133:12 185:21 334:20	263:9,14 264:23 273:7 278:12,12 291:20 292:4 295:2,7,9,10,19 296:4 297:19 298:22 299:21 303:4,21 307:16 307:19 309:11 310:16 319:21 339:19,20 344:24 346:23 347:7 356:2,14,15,22,23 362:16,24 363:8 363:12,20 374:2 374:17 375:3 382:5 389:6 391:7 393:17,18,24 409:22,23 410:10 412:19 415:6,6 417:2,2,4,5,6,8 418:5,13,19,21 419:10,16 420:9 420:21 421:15 422:8,14,18 423:19 425:8 429:23,25 430:5 430:23 434:18 435:10 437:7 438:11,16 439:17 441:12 442:7 443:12,18 464:13 465:16 467:4,20 469:11 475:24 477:5 478:12,12 486:21 489:5 gelbstein 125:9 151:12 186:14 188:23 189:17 190:23 192:3 196:14 201:7 233:24 234:15 236:19 244:18 246:9 247:7,15,17 248:13 251:18	409:12,15,17 410:24 411:3 441:7,16 general's 310:20 322:23 410:18 411:13,14 412:22 414:21,22,24 415:13,14 476:20 476:21 generalizations 202:24 generally 481:15 generate 131:4,7 137:2 generating 137:3 gentleman 412:14 412:16 george 215:15,21 216:5,7,15,16 218:5,5,7,10,18,20 219:12,15,18,20 225:24 298:3,4 478:3,4 george's 215:16 geri 175:5 343:10 343:20 389:25 390:24 392:10 486:21 getting 133:16,16 135:11,13 148:21 172:18 215:21 216:15,16 218:16 258:10,11,13 309:10 315:12 316:7 346:11 gelbstein's 146:5 294:20 416:4 476:3 general 126:9,11 169:16 202:13 286:21 323:25	gifts 139:14 172:17 173:11 395:16 475:8 476:11 giggle 425:9 433:5 439:18 giggles 409:23 412:20 415:8 418:25 431:2 432:18 433:17 435:11,18 441:15 gini 250:10 270:18 ginny 250:9 girlfriend 215:17 360:22 365:19 478:6 girlfriends 328:5 girls 199:16 give 137:13,16 150:22 169:3 176:16 192:14 204:5,19 208:10 211:3,4 212:23,24 213:14,23,24 220:13,14,15,15 220:18,19 221:9 221:22,24 222:4 240:25 264:23,25 288:11 299:5 302:3 305:14 315:18,20 326:15 338:3 339:24 341:19 344:20 348:15,18 349:2,3 349:7,17,20 350:12,18,24 351:9,15,19 352:14 366:14,15 366:17,21 383:13 383:24 385:13 386:5,10,13
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[give - going]

Page 21

391:22 394:12	167:16 176:5	349:7,20 350:7,12	232:16,18,20
395:5 403:9 413:9	185:5,20 190:9	354:2,6,11,14,17	238:18,19,19,21
425:3 440:12	197:18 201:16	354:23 355:4	238:25,25 239:2,7
465:22 466:4,5,6	202:18 206:6	356:9 357:11	239:9,20,22 242:3
466:17 467:9	219:8,9 227:15	363:2,7,10,22	242:4,17 251:6,9
468:3,11 475:4	230:3,16,20 231:4	364:13 366:3	258:19 260:21,22
482:7,8	231:20 232:13	367:10,12 371:15	261:5,5,9 262:3
given 131:12,15	233:10 238:9	371:21 374:3,16	265:9 270:14
134:5,8,9 136:20	241:15,17 243:15	374:18,20,20	271:19 273:24
143:6,8,25 145:22	245:7 251:13,14	375:4,7 381:18	275:5,12 286:5
149:2 179:10	251:14 252:21	388:6,8 396:24	291:11,11 304:21
224:21 257:14	253:2 256:11,19	397:13 410:12	306:12,19 309:13
262:4 263:10,15	257:2,7,10,24	415:6,13 424:9,18	319:6 320:22
295:4 300:18,19	258:12,15,20	425:17 428:6,21	321:3 323:7
300:23 303:22	259:14 260:17,22	430:21 431:10	331:13 332:16,16
304:5 307:8 317:5	260:25 261:23	438:18 439:22	332:18 334:15
317:10 319:22	266:17,20,22	440:5,12 442:14	335:6,8,24 340:24
321:23 364:7	268:14 269:11	442:15,24 444:22	342:10 346:2
368:6 381:17	270:2,11 272:15	445:25 455:20	347:3,11 353:25
422:22 468:2	272:20 273:3,22	456:25 459:12	355:22 356:10
gives 302:3,6	277:23 281:19	464:18,20 468:21	357:12 358:22
320:12 366:22	287:17,20 288:13	478:22 479:2,4,25	361:21,24 362:2,3
416:9	288:15 290:9,9	480:5	362:7,8 363:5,13
giving 139:14	294:17,18 297:22	god 237:18 247:12	363:15,18 364:23
141:7,8 151:13	299:9 301:4	247:13 437:21	365:5,6,6 366:23
172:17,19,25	302:18,18 304:4	goes 242:15 273:6	367:7,13,14
173:3,11,17 174:3	304:19,25 306:3	273:6 452:15	368:12,13,16,22
192:12 265:4	306:22 308:3	going 128:5,6	373:21 375:10,10
309:13 314:24	309:20 311:18	129:4 133:21	377:18 380:14
315:8,15 384:12	316:20 319:22	136:10 137:13,16	381:18 382:3
395:21 396:9,10	320:21 321:25	144:11 150:8	383:11,23 384:5,7
396:10 416:4	322:3,21 323:23	154:5 155:6	389:12 397:20
421:3 475:20	323:23 325:18	161:13 162:6	403:9,21 404:6,7
476:11 477:24	327:3,13 329:8,8	169:2,3 171:5	406:13,23 408:2
478:18 479:5	329:14 331:6	176:21 185:10	412:25 414:5
glad 144:8	332:9 333:18,23	188:15 190:3	419:17 420:21
go 136:9 138:5,9	335:16 338:4	198:4,24 199:17	421:14,15 422:3,5
138:13 142:3,7,24	339:16 340:20	203:21 205:22	422:8 423:6
144:3,4 145:15	341:6,7,8,12,12,18	207:20,21 208:4	425:15,16,17,18
153:20,23 154:2,5	341:24 347:9,10	215:14 217:14	428:18 430:19
157:13 158:18	347:23 348:8	226:2,15,21	439:4 453:10

[going - happened]

Page 22

454:21 456:24	374:23 378:19	418:13 421:17	handing 198:17
457:2 466:16	389:5 415:17	432:7,24 433:12	handle 223:6,16
471:21,24 478:23	428:21 429:13	433:18 436:15	412:17
479:15 480:19	433:3	439:5 451:19	handled 259:20
481:3,4,5,8,10,23	guards 277:18	454:22 455:3,5	hands 219:2 277:3
482:3 483:13	guess 130:20	459:18 461:9	304:20,22 307:4
good 133:14	162:20 194:6	463:9,10 464:12	471:2
139:25 145:8	215:21 270:22	464:23 465:19,20	hang 266:21,22
154:17 163:9,21	344:17 357:4	466:2,5,11,14	354:18 355:6
163:23 178:15	378:10 394:23	467:11,15 468:20	467:11
195:14 225:12	409:8 414:7	468:25 469:4,5,10	hanging 353:21
228:22 247:24	guilty 152:25	guy's 240:19,21	happen 160:23
253:8 266:16	196:3,5 433:14	252:24 362:17	191:6 199:7 232:3
302:22 316:17	437:10 478:23	379:13 436:9	278:14 281:11
317:22 320:24	479:3,4,18	guys 211:19,20,22	291:8,9,13 296:21
397:18 418:9	gun 238:25 436:15	226:4,20 328:2	350:15,17 363:18
458:7 461:5 481:6	464:22 466:23	405:22 416:15	412:9 432:12
481:14	467:3,5,20 468:16	gym 305:2,2 403:3	happened 138:22
google 413:20	469:12 471:17	403:11,18 454:11	146:8,22,23 147:2
gotten 214:18	guns 362:22	h	147:10,15 151:10
470:18	guy 161:10,11	h 125:5,16,18	158:14 160:3
grade 151:24	167:7,7,11 170:25	126:4 253:13	218:3,6 230:3
grand 335:21	171:2 205:12	398:23 483:8,17	231:7,8,13 232:11
great 247:18,19,20	231:19 232:17	488:4,7,18 489:6	234:13 242:19
248:9 283:10	236:20 239:5,9	489:21	243:5 252:17
grievance 235:6	240:8 242:3 245:7	half 129:20 226:19	256:9 258:8,9
441:21	245:14 251:8	229:13 302:3,6,7	266:5 267:22
grieve 235:5,9	253:10 262:3	325:4,5,11 326:23	271:10 272:17
grieved 235:6	272:15,19 273:2	halfway 316:12	273:8,21 278:25
grounds 471:18	273:22 274:4,5,5	363:11 373:13	279:24 280:8
growing 133:7	274:10,20 279:20	382:11	283:16 290:7,15
grudge 357:9,11	281:19 320:12	hand 196:12 278:3	291:14,22,23
grumbled 256:2	329:2,7 345:18	281:25 282:3,5	292:2 295:17,25
grumbling 308:23	347:12 349:6,16	283:11 309:3,3,14	302:4,15,16
guard 278:3,9	356:11 361:14	309:16 345:8	303:24 307:10,24
308:22 309:7	363:4 365:12,14	416:10,17 435:25	308:8,23 309:5
346:9,13 353:20	365:16 369:5,6	436:4,7,11,23	313:24 314:2,7
355:2,15,16	377:24 382:12	437:2	318:21 344:10
356:21,25 357:2	383:9 385:13,14	handed 168:13	349:9 363:9,24
362:11 363:16	403:4 410:5 416:2	199:24 293:22	364:8 365:23
368:19 373:24	416:5,25 417:15		368:20 370:5

373:19,20 374:8	481:5,10 482:2,3	hearings 164:22	238:14,17,18,19
375:18,19 377:10	harm 136:6,24	360:10	238:21,22,25
378:24 381:20	harmed 129:9	heart 151:14	239:2,2,7,9 251:6
382:25 383:4,12	132:3 179:25	169:7 171:12	251:9 272:23
409:7,9 432:21	hate 225:16 330:5	heartbeat 436:18	278:2,5,8 281:14
442:11 444:16	337:9	heated 344:7	282:3,4,14 283:19
445:9,13 446:24	hater 142:3	height 455:14	292:15 304:25
446:25 447:2,18	230:17 231:5	held 354:25	306:12 307:2
448:25 449:10	233:5 235:19,21	427:10,13	hitting 150:5
450:21,22 453:2,3	236:3,5 237:9	hell 330:24 342:9	159:10 251:5
453:19 462:11	243:15 245:8	344:11	277:17,24 309:15
463:4,15,16 468:5	257:3 261:3,24	hello 164:14	hold 144:11
470:7,8 471:23,24	268:15 269:9,9	help 171:13	176:20 233:2
471:25 472:4	281:20 288:14	177:25 214:13	243:8 336:21
478:2	304:18 308:4	220:22,24 223:19	419:3,7
happening 297:15	329:10,11	293:24 330:2	holding 317:13
410:4 446:11	head 245:7 250:17	360:24 434:10	holidays 315:16
448:24 479:6	308:24 309:2	466:14	home 267:12,13
happens 234:3	464:23 466:23	helped 163:12	274:15,18 279:12
279:2 304:23	467:3,5,20 468:16	165:6 377:20	455:19
305:3 416:14	469:12 471:18	high 285:10,13,16	hon 217:22 218:5
happy 226:14	hear 168:23	285:23	218:5,7,18,20
423:15 432:14	169:23 319:25	higher 138:16	298:3,4 478:3,5
harass 309:10	341:20 358:15	highlight 294:15	hope 396:21
454:16	372:25 385:14	302:23,23 373:7	horton 167:22
harassed 345:23	386:10 389:10	430:19	hospital 273:11,25
harassment	415:7 441:13	highlighted	275:2 284:8 291:4
309:12,13 357:3	466:3 468:10	297:14 298:8	hostile 373:8
357:24 409:25	heard 147:18	377:15	hostility 242:23
410:2 415:5	157:3 251:7,10	highlighting 158:4	hour 165:20
419:20 421:19	267:4,7 311:21	316:11	226:19 229:13
424:16,25 425:6	320:18 343:21	hire 128:6 129:5	301:14 397:3
425:13 436:2	353:25 387:2,16	133:21 137:21	425:23
439:16 440:8,14	459:21 478:21	hired 310:18	hours 165:18
440:21 454:13	hearing 281:6	361:10,24 366:8,9	397:14
harassments	319:23 321:7	440:17	house 327:25
345:4	341:13 360:16,17	hit 149:9,18 150:4	how's 181:13,15
hard 148:23,24	370:11,12,18,24	152:6 159:14,23	howard 126:14
191:19 193:6	375:25 386:4	203:22 231:17,20	human 245:22
402:20 422:20	465:21,24 468:2	231:21,23 232:16	humanity 260:16
433:4 479:10	468:22 472:12	232:18,21 235:18	

[hundreds - intelligence]

Page 24

hundreds 238:3 hungry 198:12 hurts 267:16 hypothetical 289:25 291:12 hypotheticals 292:9 404:7 471:21,25	ii 125:22 imagine 370:21 473:10 immediately 183:7 183:9 334:21 immigration 138:7 implicit 424:11 implored 280:21 important 183:19 imposing 161:16 improper 427:20 427:24 improperly 221:21 impropriety 173:9 inappropriate 142:15 476:2 inaudible 456:5 incapable 416:6 424:11 442:17 443:2 444:24 inch 301:19 inches 283:13 309:2 345:10 432:15 incident 155:20 156:17 168:19 169:11 186:10 201:4 215:12 228:8 232:13,19 233:20 235:2,12 248:22 261:21 266:19 289:5 295:3 297:2 299:7 299:11,14,18 308:10 309:7 312:21,23 313:4,8 317:5,9 346:3,4 349:9 358:12,14 360:12 365:22	370:13 375:23 376:9 378:14 383:6 389:2 392:23 405:8,18 406:5 410:3 412:6 412:8,10 415:22 416:13,14,21 419:20 420:3,5,12 420:24 421:9,15 421:25 422:9,11 422:17,24 423:13 423:20 427:17 431:12 432:10 434:8 439:5 444:6 452:24 458:15 486:7,19 incidents 186:6 298:19 299:2,4 301:23 357:25 378:15 427:25 include 438:11 included 336:5 including 334:10 334:20 incoherent 281:3 income 130:12 137:3 incompetent 416:6 424:11 442:17 443:3 444:25 independent 165:14 350:3 386:9 independently 288:24 index 154:16 484:2,3,7,11 485:1 486:1 487:1 indicate 150:15 157:24 249:4	indicated 214:23 237:23 488:8 indicates 178:23 370:14 indicating 436:5,8 437:3 indication 155:25 156:9,14 individual's 185:19 individually 381:13,24 382:17 information 372:15,19 373:15 informed 393:16 infractions 473:22 initially 337:24 injury 134:19 insecure 454:17 insecurities 221:7 221:8,8 454:18,19 insecurity 221:6 221:12,13 inside 241:7 inspector 476:20 instance 261:20 275:11 369:16 388:23 instances 430:10 instructor 403:4 insult 169:16 170:2,3,11 174:7 181:3,10 insulted 169:13 171:24 221:20 insulting 169:21 171:10,20 172:6,8 173:23 330:16 intelligence 328:9 328:10,12,23
------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[intensely - judge]

Page 25

intensely 260:13	378:20 395:17	235:19,21 236:3,5	476:21
interact 179:13	437:17 438:5	237:9 242:25	jobs 134:17
interacting 429:5	441:17 449:15	243:15,17,18	135:13
interfere 201:22 201:23	462:19 465:9	244:21,22 245:8	john 175:6 327:7
interfered 430:12	island 196:24	257:2 260:18	485:22
interpreted 171:14	issue 175:14,16,18	261:2,24 262:9,15	jointly 294:21
interpreter 157:8	175:19,21,22	262:15 264:17	jr 151:17 484:14
interrogatories 312:21	176:4,8,19 177:20	268:15 269:9,9	judaism 236:25
interrogatory 442:6	177:21,23 178:16	281:20 287:13,16	237:12
interrupted 200:4	185:10 188:18,20	287:17 288:13	judge 140:12,14
intervened 160:2 344:8 374:24	190:13 212:17	290:24 304:18	140:24 146:5
intervening 374:23	349:12 462:3,4	308:4 329:10,11	151:12 186:13
intimidated 213:13,17 214:3 220:22 223:18 284:21 381:8	issues 294:10	jewish 236:14,15	188:23 189:16
intimidating 205:12	350:14 439:25	236:16 237:17	190:23 196:14
inveigh 257:12	465:2,3,6	244:17,18 245:4,5	201:7 219:23
investigate 379:5 384:3,9,15	italian 236:13	246:3,11,11,15	236:19 244:17
investigated 356:14 360:14 363:25 364:6 368:10 370:7,8 375:18 379:2 383:7 477:21	244:22 246:12,16	247:2,11,14,23	246:9 247:7
investigation 386:16	247:2 250:9 259:6	250:7 259:5	248:12,17,20
investigations 383:16,19 385:10 385:23	264:22 270:18	264:21 265:7,8,10	249:4,8,13 263:14
involved 205:5 363:18 374:2 375:16,16 378:11	item 127:11 430:9	287:22 437:8	264:23 273:7
j			
	jacket 373:11,14	jews 236:24	278:11,12 291:20
	jackie 324:11	237:12,12 244:13	292:17 294:12
	jackie's 337:11	245:25 269:15,19	298:2 305:22
	jacqueline 485:19 486:2	286:11 287:8	306:16,18 309:11
	james 126:9,11 409:18	jiang 135:2,15	316:14 319:21,21
	january 215:6 217:11 313:23 485:15	jiang's 135:3	319:24 322:13
	jealous 276:23 277:5	job 134:23 135:2 135:11 163:18	337:23,25 338:5
	jeff 231:12,21 242:17 274:2,4 279:11,19 284:4 302:9	173:4,20 175:2,23 175:25 178:17 181:16 182:25 186:14,15 225:14 225:14,22 247:13 248:7 259:22,23 260:2,9,9 315:5 320:12,13 396:12 438:8,14 439:2 440:25 441:3,19 441:25,25 454:15 458:12 460:25 476:17,18,20,21	341:20 344:24 360:18 371:7 386:24 391:7 393:17,17,18,24 394:4 409:22,23 418:4,19,24,25 419:16 420:9,21 421:15 422:8,14 423:19 429:25 430:23 432:23 433:3,5 434:4,17 435:9,10 437:7,19 437:20 438:4,4,10 438:16,21,23

[judge - know]

Page 26

441:15 442:7 460:16,25 461:3,5 464:22 466:22 467:2,4 468:15 471:17 472:12 474:19 475:24 477:5 judge's 460:19,20 judges 139:20,23 140:2,6,18 210:16 236:16 244:20 245:3 246:4 247:14,15,22,23 248:6 264:21 265:6,8,10 478:17 july 197:21 jumped 457:25 june 164:16 332:5 332:8 333:15 336:9,10,16 341:4 341:6,24 342:21 344:14 346:19 347:5 358:17 430:6 485:23,25 jury 131:8,10,16 389:9 justify 290:2 404:5 416:21 473:3,22 474:13	keeps 362:6 399:5 399:9,12 401:17 402:11 kempo 285:7 286:3 kept 178:23 281:7 286:9 328:9,11 329:4 373:16 382:12 403:6,21 kicked 249:9,16 kidding 272:20,21 kike 248:14 kimberly 469:24 470:4 kind 202:10,12 402:15 knew 213:16 229:2 424:20 428:17 429:7,12 429:12,16 431:10 458:9 knife 238:24 361:21 362:3,8,18 363:5,14 364:23 365:7,21 367:8,14 368:13,17,23 369:6 373:22 375:11 377:12,24 378:18 379:14 382:4 387:6,20 388:9,11,18 436:15,17 knives 362:22 know 132:15,18 133:16,17,17,19 134:11 135:18,19 139:11,13,19,25 140:5,17,19 143:10 145:4,16 146:23 148:4 150:20 151:8,17	151:19 153:6,6,13 153:13,14,15,15 154:24 156:8 159:8 160:8 162:14 165:17 166:9,15,23 170:2 170:8,12 171:7,8 171:14 172:13 174:7,15,15 176:18,20,22 177:6,19 178:2,8,8 179:22 180:14,15 180:22 181:12 182:10,11 183:23 184:16 185:25 194:5,19,19 195:20 197:3,14 200:8 201:6,14,18 201:20 204:13,15 205:11,13 207:6 207:19 208:2 209:14,18,21 210:2 211:6,8,11 211:17,18 213:9 213:11,14 215:8 216:4,16,24 217:12,15,16 221:19 222:9,11 222:13,24 223:16 225:12,17 232:24 233:18 236:7,12 236:18,20 239:6 240:9,17 244:2 249:22 250:2,13 250:19 251:17 252:19 253:14,15 253:18,23,23,24 253:25 254:6 258:25 259:2,4,7,9 259:14,17 260:2,4 261:22 262:14,25	263:2 266:24 267:5,6,8,9,22,23 267:23 268:3,19 270:25 271:4,15 271:18,19,22 272:6 273:18,19 275:18,18,21 276:12,13,14,15 276:17,21 277:2 277:12 282:9,10 282:13,18 284:23 289:7,15 291:2,7,8 291:17 293:13 297:4 299:7 302:25 306:18 310:17 312:6 313:9 314:23 315:2,6,14,17,18 315:21,24,25 316:4,8 317:2 318:5 321:14 322:7,8 323:4,5 324:15,16,17 328:15,25 329:3,9 329:11 330:7,8,13 330:18 332:18 343:20 345:18 350:6,8,11,16 351:13,17,18,19 351:22,22,23 352:6,8,12,13 353:11 354:10 355:20 358:8,25 360:18 362:17,19 364:19,19 369:7 370:5,20 371:4,20 374:18 375:15 376:25 378:2,4,7 379:2,13,23 380:2 383:10,17 385:5 388:7 389:15,19
k k 285:7 kamala 177:17 keep 176:20 198:24 226:14 249:23 379:25 402:21 403:12 438:15 439:6 444:7 keeping 326:13 402:22 438:14	know 132:15,18 133:16,17,17,19 134:11 135:18,19 139:11,13,19,25 140:5,17,19 143:10 145:4,16 146:23 148:4 150:20 151:8,17	249:22 250:2,13 250:19 251:17 252:19 253:14,15 253:18,23,23,24 253:25 254:6 258:25 259:2,4,7,9 259:14,17 260:2,4 261:22 262:14,25	360:18 362:17,19 364:19,19 369:7 370:5,20 371:4,20 374:18 375:15 376:25 378:2,4,7 379:2,13,23 380:2 383:10,17 385:5 388:7 389:15,19

[know - letter]

Page 27

391:11 393:10,12	lack 256:3	313:10,17 316:13	394:15,24 415:17
393:13 394:7,20	lady 197:9 215:18	318:2 320:25	432:8,25 433:3
395:3 396:3,8,9	217:19,20 324:11	322:8 324:10	439:14,14 443:10
402:6,20 403:13	344:16	336:6,14 341:23	464:7 471:8
404:2,8,24 405:19	language 158:4	346:9 349:19	leaves 255:8
407:10 409:7	250:7 262:10	354:22 357:13	leaving 185:12
411:11 412:13	296:14,22,25	360:23 366:2	242:6 390:3,7,10
413:15,17 417:2	297:6 351:2	386:8 417:22	390:19 391:17
418:12,12,14	lashed 238:12	418:9 427:6,8,11	394:9,18
422:13 425:16,22	lastly 277:15	427:14,22,23	left 129:15 174:18
428:3,12,23,25	laugh 178:11,12	428:11,14 433:2	301:20 302:14
429:2,4,9,13	274:6 425:9 433:5	437:24,25 440:17	320:10 338:11
431:20 432:8,9	439:17	454:16,17,18	396:21 425:23
433:14 435:20,21	laughing 177:7	459:17 464:24	459:11 462:2
437:7,15 440:4	laughs 409:23	467:14,14 471:8	legal 127:14
441:5 445:24	412:20 415:7	474:18 475:19	134:17 384:13
446:15 447:10,15	418:25 430:25	479:15,19	385:9,21
447:17,25 448:3,5	law 136:10 151:9	lawyers 164:21	letitia 126:9
448:22,23 449:6	432:17 433:17	167:2 212:16	409:18
449:14,16 451:6	435:10,17 441:15	232:8 236:14,15	letter 220:3
454:25 455:24,25	law 136:10 151:9	241:13,16,22	311:11,14 320:6
456:6 457:24	184:7 306:17	245:5 254:25	321:23,25 324:7,9
460:21 461:6	385:25 417:21	255:4 264:22	324:14,16,20
462:19 463:14,14	418:8 426:23	271:8,9 277:22	325:3,5,10,14,20
463:15,24 465:18	432:12 440:13	282:23 283:6	326:20,23 333:8
465:22 466:4,7,15	lawsuit 135:20	286:20 287:5,14	336:5,9,10,11,13
466:18 467:11,13	319:15,18 322:23	287:15 290:17	336:15 339:5
467:16,24,25	439:11	299:23 304:13,16	341:7 342:2,7
470:5 471:12,13	lawyer 146:3,4,11	411:18 454:23,23	352:7 405:4
471:25 472:4	146:13,14 152:24	458:11 470:23	406:18,20,21
473:6,19,20,21	153:2 160:13	478:17	407:20 408:3,4,6,8
474:6,7,15,16,24	183:12 195:12	lead 405:18 406:5	408:15,17 409:20
478:15 481:7	196:13 199:23	427:18 428:2	410:18 412:7,11
482:23	232:9,22 237:9	leadership 247:10	412:23 413:24
knowledge 194:22	240:18,20,22	308:14	414:8,13,16
350:8 436:24	242:18 248:10	leave 134:7,12	415:21 416:20
knuckles 303:13	249:12 251:16	135:17 175:10,11	417:24 418:7
I	253:6 257:18	180:25 184:25	419:15 420:8
151:16 195:10	266:14 269:6	185:2 187:15	422:7,23 423:8,19
484:14	286:22,22 306:15	295:23 299:22	424:15,23,24
	306:17 308:3	344:15 345:19,20	426:20 428:4,17
	310:18 311:5,17		

433:10,22 434:7 437:11,12 438:12 440:5 441:18,24 442:7 485:15,18 485:25 487:2 letterhead 325:14 letters 429:21,25 letting 227:13 level 163:24 285:10,12,13,15 285:17,18,23 340:16 levine 376:7,18 379:8 477:17 liberty 126:9 license 168:13 346:12 361:7,13 361:15,23 364:3 364:22 371:5,7 376:2 452:3 licensed 427:6 licensees 334:23 licenses 169:5 346:9 lie 152:19 172:12 172:15 176:17 183:15,18 184:3 200:17 201:13,19 202:4,8 207:16 219:19,20 239:8 248:16,17,20 249:3,7 257:22 258:6 275:17,19 282:8 297:25 298:5 305:16,16 305:22 306:10 356:17 370:3,5,7 370:11,15,19 375:25 377:22,23 378:5,6,8 383:6 463:13 467:8,8	lied 219:21,21 250:25 275:21 lies 381:5 life 159:15,23 182:15 207:12 284:16,18 304:22 467:18 liked 132:19,20,21 133:13,18,18 135:6,6 139:24 140:6,18,24 141:7 141:12,13 153:7 174:19 184:4,5 201:25 217:18 225:13,13,17 316:5 344:17 455:15 likes 177:18 390:16 liking 461:14 line 263:24 373:15 377:18 378:10,13 382:10 484:4,8,12 489:8 liquor 455:20,21 lisa 125:18 488:4 488:18 list 170:6 214:20 214:21 484:23 listed 148:4,17 203:12 listen 137:25 169:23 175:9 223:3 237:2 271:3 314:6 320:21 331:9 339:8 396:20 407:4 422:16 441:5,21 listening 142:24 269:11 277:14 410:13	litigate 439:10 litigation 323:2 little 140:17 168:24 177:8 272:9 286:25 293:13 305:18 326:6 328:24 329:2 344:18 347:25 371:15 401:21,24 402:15 402:16 450:23 452:10 live 364:16 440:14 440:20 441:2 living 128:22 355:17 374:21 421:12 433:15 likes 177:18 390:16 liking 461:14 line 263:24 373:15 377:18 378:10,13 382:10 484:4,8,12 489:8 liquor 455:20,21 lisa 125:18 488:4 488:18 list 170:6 214:20 214:21 484:23 listed 148:4,17 203:12 listen 137:25 169:23 175:9 223:3 237:2 271:3 314:6 320:21 331:9 339:8 396:20 407:4 422:16 441:5,21 listening 142:24 269:11 277:14 410:13	308:21 330:10,21 330:22 337:10 354:7,19,23 355:7 362:10 417:10 445:25 446:3 448:14 looked 224:15 271:15 291:18 294:2 347:8 367:21 368:19 373:23 410:21 411:4,8 413:19 446:6 469:18 looking 127:8 231:11 249:10 256:9,10,11,12,15 256:18,21 268:22 306:4 309:8 314:13 328:2 344:6,12,19,19 356:12 430:11 453:8 looks 273:6 346:24 lose 276:16,18 413:6,7 434:12,12 439:2 loses 444:6 loss 127:13 365:9 lost 131:22 353:16 408:7,20 409:2 440:22 461:15 469:6 lot 128:20 161:16 165:2 182:15 198:10,16 202:3 206:20 211:18,19 211:22 218:21 318:19 320:4,6 338:10 339:23 342:9 344:12 346:10,11 354:8
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[lot - m.h.]

Page 29

357:17 377:9	281:23 306:16	216:1 217:1 218:1	339:1 340:1 341:1
391:12 445:8,13	350:21 351:7	219:1 220:1 221:1	342:1 343:1 344:1
448:23 449:15	355:9,19 369:18	222:1 223:1 224:1	345:1 346:1 347:1
455:6 458:11	369:21 371:4,5	225:1 226:1 227:1	348:1 349:1 350:1
460:19 465:7	381:10 391:16,20	228:1 229:1 230:1	351:1 352:1 353:1
lots 209:12	394:6 458:24	231:1 232:1 233:1	354:1 355:1 356:1
loud 141:14,15	463:12 467:22	234:1 235:1 236:1	357:1 358:1 359:1
148:15,16 157:3	470:2	237:1 238:1 239:1	360:1 361:1 362:1
168:22 169:9,22	m		
169:23 170:22	m 253:13 285:7	240:1 241:1 242:1	363:1 364:1 365:1
171:11 172:7	485:7 487:6	243:1 244:1 245:1	366:1 367:1 368:1
173:21,22 181:8	m.h. 127:1 128:1	246:1 247:1 248:1	369:1 370:1 371:1
185:4 280:18	129:1 130:1 131:1	249:1 250:1 251:1	372:1 373:1 374:1
281:3 314:9 377:7	132:1 133:1 134:1	252:1 253:1 254:1	375:1 376:1 377:1
loudly 157:5	135:1 136:1 137:1	255:1 256:1 257:1	378:1 379:1 380:1
168:22 170:21	138:1 139:1 140:1	258:1 259:1 260:1	381:1 382:1 383:1
171:3,11 205:2	141:1 142:1 143:1	261:1 262:1 263:1	384:1 385:1 386:1
love 139:12	144:1 145:1 146:1	264:1 265:1 266:1	387:1 388:1 389:1
loved 139:7,8,16	147:1 148:1 149:1	267:1 268:1 269:1	390:1 391:1 392:1
222:17	150:1 151:1 152:1	270:1 271:1 272:1	393:1 394:1 395:1
low 138:16 399:6	153:1 154:1 155:1	273:1 274:1 275:1	396:1 397:1 398:1
lower 209:16	156:1 157:1 158:1	276:1 277:1 278:1	399:1 400:1 401:1
ludicrous 350:17	159:1 160:1 161:1	279:1 280:1 281:1	402:1 403:1 404:1
387:25	162:1 163:1 164:1	282:1 283:1 284:1	405:1 406:1 407:1
lunch 184:12	165:1 166:1 167:1	285:1 286:1 287:1	408:1 409:1 410:1
226:5 315:23	168:1 169:1 170:1	288:1 289:1 290:1	411:1 412:1 413:1
433:12 437:8	171:1 172:1 173:1	291:1 292:1 293:1	414:1 415:1 416:1
478:14	174:1 175:1 176:1	294:1 295:1 296:1	417:1 418:1 419:1
lunged 283:9	177:1 178:1 179:1	297:1 298:1 299:1	420:1 421:1 422:1
lungs 158:9	180:1 181:1 182:1	300:1 301:1 302:1	423:1 424:1 425:1
311:23	183:1 184:1 185:1	303:1 304:1 305:1	426:1 427:1 428:1
lying 152:4,16	186:1 187:1 188:1	306:1 307:1 308:1	429:1 430:1 431:1
153:9 159:7,8	189:1 190:1 191:1	309:1 310:1 311:1	432:1 433:1 434:1
172:4 183:22	192:1 193:1 194:1	312:1 313:1 314:1	435:1 436:1 437:1
192:3 202:5	195:1 196:1 197:1	315:1 316:1 317:1	438:1 439:1 440:1
206:24 207:8,13	198:1 199:1 200:1	318:1 319:1 320:1	441:1 442:1 443:1
207:14,25 208:3	201:1 202:1 203:1	321:1 322:1 323:1	444:1 445:1 446:1
229:17 232:22	204:1 205:1 206:1	324:1 325:1 326:1	447:1 448:1 449:1
249:12 251:16	207:1 208:1 209:1	327:1 328:1 329:1	450:1 451:1 452:1
257:18 261:11,12	210:1 211:1 212:1	330:1 331:1 332:1	453:1 454:1 455:1
268:5 274:21	213:1 214:1 215:1	333:1 334:1 335:1	456:1 457:1 458:1
		336:1 337:1 338:1	459:1 460:1 461:1

[m.h. - marked]

Page 30

462:1 463:1 464:1	260:10,12 261:13	379:16 387:5	487:4 488:7 489:6
465:1 466:1 467:1	261:19 262:6	403:10 430:6	489:21
468:1 469:1 470:1	263:22 264:15	432:3 434:16,23	marisol 162:13,14
471:1 472:1 473:1	272:6 485:5	444:3,22 453:22	163:6 174:21
474:1 475:1 476:1	mail 154:19,24	461:20 466:17	214:21 217:8
477:1 478:1 479:1	197:2 301:3,15	467:4,10 468:12	224:9 484:18
480:1 481:1 482:1	389:25 396:18	469:8 471:2	mark 154:10
483:1	481:4,16 486:21	man's 254:21	156:21 162:25
macdonald 125:18	mailed 154:22	258:19 327:23	193:15 194:8
145:3 154:9,11	321:25 333:15	376:2	224:5 251:23
156:20 162:24	mailing 154:19	management	266:7 280:12
193:14 208:15	mailroom 408:7	232:2 238:9 244:3	293:6 311:9 319:9
210:8 224:4	408:20 409:2,4	245:18 263:19	326:9,16 327:16
226:11 228:14	413:7 434:13	269:5 270:15	333:6 338:16
266:7 280:3,12	440:23	320:3 321:16,17	343:14 348:20
293:6 326:5	making 132:6,13	322:3,11,20	352:18 359:3,25
327:16 331:16	132:14 142:4	324:17 327:13,14	371:9 372:6
333:5 338:16	176:12 219:10	327:22 332:4,12	376:13 396:15
343:14 352:17	232:24 236:11,17	333:20 335:9,10	407:20 426:17
359:2,25 371:9	243:17,25 245:14	335:12,21 336:17	456:10,11 457:23
372:6 376:12	248:18 249:22	336:19 337:14,19	marked 154:16
396:15 407:19	254:3 261:3	338:4,6,10,13	155:4,15 156:24
408:14 426:3,17	276:14,22,23	339:9,22 344:13	163:3 193:14,25
455:18 456:4	277:11 281:15	356:4 426:22	194:11 208:16,17
480:3 481:9 488:4	286:24 290:18	428:7 440:16	210:8,12 228:11
488:18	317:4 318:22	managers 311:21	228:15,17 251:22
machine 243:9	405:15 434:24,25	manhattan 235:7	252:4,10 265:19
mad 231:19 244:2	438:2 465:8 471:6	manner 195:9	266:10 280:15
244:3 263:4	male 373:2	202:25 204:25	293:9 311:11
273:14 281:13	man 211:2 212:19	205:3 212:5	323:11 326:20
283:21 290:8,10	213:2 228:24	245:12	327:19 331:18
304:2	236:2 239:6	manufacture	332:25 333:8
madam 144:18	243:14,22 251:13	423:20	338:21 343:17
154:8 156:20	254:5,7 258:14,16	march 399:21	348:5,23 353:7
162:4 194:7	259:18,20 261:6,8	408:22 434:5	358:5,25 359:5,16
maher 240:16	261:11 262:17,21	487:2	360:4 372:2,9
252:12,18,24,24	262:22 263:4,6	mario 125:5,16	376:15 389:21
253:4,9,12 254:9	274:18 275:22	126:4 210:19	396:18 407:24
254:22 255:15	277:22 347:2	339:15 344:5	408:10,15,17
257:11,22 258:6,7	373:5 374:6	372:25 462:5	450:10 456:14
258:23 259:13,15	377:11 378:17	481:18 483:8,17	457:19 458:3

[marking - months]

Page 31

marking	324:22	427:5 448:12	389:4,5	moment	415:20	
martial	223:5,12	452:17 454:10,11	meyers	231:12,21	448:10	
283:12	284:16,24	458:9 464:15	240:21	242:16,18	monday	390:2
285:5	286:2	467:13	272:9,13,14	448:14	money	127:25
304:21	305:2	meaning	273:10,14,15,16	128:8,11,16,18,23	128:8,11,16,18,23	
398:19	403:2,18	means	273:25 274:2,4,25	129:13,15,25	129:13,15,25	
436:23		175:9 185:25	276:3,4,6 279:11	131:21	132:6,13	
mas	286:4	270:22 317:24	280:17 281:23	132:23	133:12,25	
matter	151:14	318:6 386:3 399:4	282:7,16,18,25	139:14	141:8	
169:7	171:13	399:13 400:19	283:2 284:2,4,6	142:5	172:17,20	
203:23	273:19,20	401:14,16,19,20	286:8 287:6 302:9	173:2	174:3	
321:8	419:5	434:15 455:2	304:5,5 306:25	198:12	232:24	
461:12		meant	485:10	236:11,18	261:3	
mayer	301:18,20	312:4,6	michael	164:19,23	276:14,17,20,22	
mayer's	303:9	403:20	167:5,6,19	168:4	276:23	
mccann	327:7	media	168:14	169:12	282:21	
485:23		483:6	175:20	197:10,19	283:2,3	
mcdonough	311:7	meeting	263:23,25	264:2,5	290:18	
311:20	319:17	478:14	michael's	167:8	309:8	
320:20	324:10	melanie	371:20,20	344:20,25	345:12	
413:17	414:3,23	378:6 477:17	371:21	372:11,12	346:11	
457:23	485:16,19	melissa	489:4	356:16,18	356:19,23,25	
meals	315:22	377:21 486:16	million	288:16	mind	212:14
mean	142:22	memo	234:2,5	234:4	234:7,11	
178:17	179:6,21	407:23	235:15	235:15	235:15	
180:2,5	203:17	486:24	mine	271:9,10	362:6	
204:2	212:7,11	memory	430:25	454:18	365:3,4	
213:4	226:18	243:4	426:11		366:2,10,11,14,15	
228:25	243:25	262:11	mineola	430:25	367:4	
247:17	272:21	men	453:12	454:18	367:24	
274:2,13	275:10	128:21	mention	372:11,12	368:3,15	
276:12	284:25	313:5	mentioned	489:4	369:1,2	
286:11,17	287:8	190:22	190:22	226:20,24	370:2	
287:12,23	317:21	312:17,21	312:17,21	326:15	395:16,21	
328:24	330:18	442:7	442:7	396:10	430:7	
337:8	348:19	mess	385:2	425:24	432:13	
350:13	354:15	368:3,4	426:5	432:24	465:8	
364:17	383:15	369:20,24	462:22,23		469:6	
386:2	387:23	messed	minutes	474:20	474:20	
399:3	401:13,15	368:7,7	315:3	475:5,8,20	478:18	
408:21	415:25	369:21	396:21	478:19,20		
		met	misbehavior	monies	482:16	
		294:19	300:14	month	131:15	
		298:9	303:4	132:7	313:23,25	
		303:4	361:3	313:25		
		365:13	misconduct	monthly	238:3	
		metal	334:20	months	127:19	
		362:20	missed	131:14	185:17	
		369:11	280:5			
		375:8	482:14			

[months - never]

Page 32

197:14,15 206:10 316:19 morgan 406:19 409:11 410:15,24 413:4,12 440:3 487:3 morgan's 413:21 morning 172:25 181:13 184:8 196:11 198:17 229:4 230:4,7 233:7,15 234:12 250:14 251:12 308:2 315:2,22 331:5 354:2,8 355:5 390:4 395:22 413:10 417:11 439:22 mornings 184:18 mother 453:24,25 472:7,9,11 motion 143:15 195:4,4,7 425:19 motivated 398:24 399:5,9,12 401:17 402:11,22 403:7 motivation 172:14 motivational 401:25 motor 151:23 200:15 316:21 motorist 128:10 142:9 153:19,21 164:18 168:13 175:23 235:24 237:5 245:13 247:4 287:21 344:18,22 348:15 348:18,25 349:3 349:17,20 350:7 350:12,18,23	351:8,15,17,19 352:14 356:8,8 360:9 373:2,9,10 374:19 388:13 389:7 478:25 479:2,6 motorists 164:21 166:25 198:10,16 198:20 199:5 206:20,21 211:20 237:20 282:23,24 478:21 479:12 mouther 453:23 move 161:19,25 177:21 188:10,15 193:11 208:12 225:25 229:19 251:20 255:17 265:12 268:23 269:7,25 279:3 292:6 305:18 342:23 389:11 425:20 453:11 463:24 moved 157:9 158:2,5 268:4 453:7 459:11 moving 158:15 402:21 459:9 470:15,19 471:16 multiple 186:5 mumbling 308:24 muscular 161:11 455:11 muslim 247:3 455:23,25 456:2 mute 145:7 mutterings 281:3 mvr 151:19,20 377:20	n n 126:2 488:2 name 136:12 138:11 167:9,23 208:10 240:19,21 252:24 253:15 254:21 343:8,8,23 366:19 390:25 397:23 403:10 411:9 413:21 428:23,25 429:3,8 429:14 432:9,9 475:21 476:6,7,8 476:14,15,16 489:5,6 named 477:4 names 200:13 203:6,7,16 204:9 208:23 214:20 narrow 298:7 299:15 narrower 140:17 nationalities 237:22 246:25 435:4 near 146:22 304:4 304:5 nearly 215:5 necessary 205:20 need 177:24 179:10 187:22 188:21 207:18 219:2,4 226:9 309:25 310:2 346:12,13,25 355:12,15 396:7 425:24 433:2 479:3 needed 164:2 165:7 205:5 235:2 305:11,22 427:12	446:17 needs 131:16 303:11 306:13 neither 135:22 375:2 nerve 235:20 nervous 206:9 never 136:4 141:15,16,17,21 148:12,13 149:9 149:10,10,18 150:20 159:13,15 159:23 160:24 169:13 171:23 179:25 180:18 182:6,7 186:13,22 187:3 189:17 191:9,15,24 192:6 192:6,8 204:12 205:8,25 207:11 228:24,25 229:2,7 238:15,17 250:3,4 250:11,12 251:7 251:10 252:16 253:10 254:22 259:18 262:4 263:10,15 273:12 273:12,24,25 275:7 278:11,12 278:13,17,18 279:2 280:4,7,9 281:12,25 282:9 287:2 294:8 302:2 307:10 325:10 330:6,12 332:22 333:22 340:5,5,6,6 340:7,10,10,11,15 341:11,11,21 343:21 349:11,11 349:12 359:14,20 359:22 360:13,15
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[never - oh]

Page 33

361:6,25 364:6 369:21 370:11,16 370:18,22,24 375:20,21,22 377:11 378:8,13 379:3,6 391:3 392:12,13 394:3,4 394:5 398:21 399:6,7,16 400:5,6 400:7 403:20 429:8 450:4,11 454:5 458:20,21 458:22 459:2,14 459:16,25 460:3,7 463:6 464:10,22 465:20,21 466:22 467:6 new 125:2,19 126:5,5,8,10,10 131:6 193:11 225:25 230:7 279:3 342:23 409:13 410:25 411:3 427:7 449:18 489:2,4 nice 135:2 161:6 167:6,7,11 174:22 215:18 217:19,19 219:3 238:13 249:23 274:8 361:2,3 365:14,19 365:19 459:17,18 463:9,9 nicely 141:13 179:23,23 nickel 276:18 nielsen 344:8 night 267:12 nobody's 452:19 464:4	nodding 154:15 noise 157:12 159:25 nonsense 149:16 251:8,10 391:25 nonsensical 394:22 normal 261:6,8 290:11 365:14,14 365:15,18 north 235:8 notarization 209:24 notary 125:19 483:24 488:5 489:25 note 224:7 254:24 353:5 358:5,10 359:3,4 406:17 445:12 486:11 notes 445:7,8,11 445:17,20,21,23 445:25 446:4,9,12 446:14,17,19,21 446:24 447:5 448:8,16,20,21,22 449:3,7,7,10 482:24 484:9 488:10 notice 125:18 182:6 noting 154:15 november 392:7 now's 311:25 312:8,14,22 number 127:12 129:6,12,23 138:15,16 145:19 150:9,11,13 205:25 206:2 220:9,10,11	221:20 223:23 241:18,21 302:10 302:11 350:17 430:9 480:23 483:6 numbered 279:14 numerous 428:20 430:22 ny 489:4,4 o o 285:7 488:2 oath 136:14,17 174:9,10 obeyed 363:8,12 363:20 object 278:19 423:6,16 objected 301:10 400:12 obligation 176:2 320:10,13,14 321:5 384:2,15 obscenities 147:20 150:12 153:16 156:16 301:6,11 303:8,25 305:9 407:7 obscenity 148:5,9 148:11,17 150:22 150:23 152:17 153:23 306:21 obscures 309:3 observe 207:6 observed 147:18 148:21 156:16 179:16 303:12 observing 207:7 obviously 143:19 205:10 270:7 339:10	occasions 179:16 428:20 occurred 211:4 228:9 october 349:10 offended 286:17 offensive 435:7 office 126:8 134:10 135:3 153:3 179:9 185:6 188:25 189:9 190:25 194:20 294:21 297:20 303:12 305:12,23 310:20 316:3 322:14,17 327:2 327:24 328:7 334:5 335:15 341:9,25 342:6 349:14 392:8 408:6 409:8 410:19 411:13,15 412:22 413:5 414:8,17,20,20,21 414:22,24 415:13 415:14 418:2 419:4,7 434:9,11 439:20 440:22 482:18 office's 322:23 441:3 officer 295:8 307:20 357:14 373:25 officers 139:9 362:13 363:17 offices 334:23 341:3 oh 154:7 161:12 194:24 358:23 436:13 465:25
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[okay - passage]

Page 34

okay	136:22 140:21,25 145:5,8 153:18 154:17 155:2 160:22 161:25 162:23 164:5 181:14 195:10 219:22 225:2 227:5 229:10 251:20 257:23 278:23 287:19 291:16 296:7 297:21 298:15 309:23 310:23 319:3 325:7,25 331:25 342:19 347:20 348:8 358:18 374:14 380:19 397:4 400:22 401:18 420:13 423:2 430:4 446:25 457:10 482:5 483:5	261:4 382:25 383:2,12 418:22 427:21 466:2	opportunity 143:6 143:9 144:9 179:10 204:6 211:5 212:24,25 213:15,24,25 220:18,19 221:22 221:25 222:4 224:22 232:10,14 233:19 262:5 263:11,16,17 264:24 265:2,5,11 266:4 288:12 292:16,19 295:4 295:12,14,16 299:6 300:19,24 303:23 304:6 307:9 312:9 317:10 319:22 352:10 364:7 368:6 383:2,5,13 383:24 450:12 465:21 468:3,9,11 469:15	overheard 280:18 oversensitive 168:24 287:2 overview 380:8 owed 344:20 owned 462:25 oyama 286:4	p p 126:2,2 145:19 155:15 162:16 193:25 228:11 252:10 265:19 279:14 285:7 327:9 333:2 408:10 484:15,17 484:19,22 485:3,6 485:8,11,24,24 486:3 487:4,5	papers 230:11 paperwork 449:15 paragraph 294:15 294:17 297:23 316:12 340:23
old	489:4					paragraphs 325:15,16,22
older	134:24					paralegal 165:3,11 166:7 167:22 197:5 207:4
oldest	451:19					paralegals 164:25
omit	482:20					paramount 127:25
once	178:14 180:18 181:24 182:6 186:18,22 189:13 191:23,25 261:25 274:15 278:13,15,17,25 373:23 399:15 425:14 428:9					paranoid 454:17 parenthesis 287:17
ones	150:10 254:18 411:22					parenthetical 255:23
ongoing	462:4					park 219:9
opinion	177:3 233:20,22,24 235:13 251:19					parking 198:10,15 206:20 218:21 377:9
						part 144:16 257:25 337:19 339:3 340:23 388:4 410:15 417:18,23 420:8 420:19 440:19,20 441:2 459:3
						particularly 171:3
						parties 172:25
						party 488:12
						pass 148:25 407:12
						passage 334:18

[passed - plus]

Page 35

passed	267:2 275:24 392:10 398:12 399:21	429:9 433:13 469:21 471:14,16 478:8 479:8,10,18	perspective	307:14	piparo	343:11,20 389:25 395:11 486:21	
passing	207:3	people's	437:18	petition	220:2,7 221:15 294:2,4 344:2	place	126:5 138:13 185:18 244:12 245:25 257:9 270:20 395:7 451:8
passionate	460:22	perceive	212:2,4 212:21	petitions	222:20	placed	373:15 462:16
patent	138:9	perception	180:3 180:4 203:10 206:16 212:22	phd	485:23	placement	450:18
pattern	381:22,25 382:16,19,22	perez	146:7 147:17 148:19	philippines	329:18 329:19,23	plain	205:3
paul	359:9 360:7 369:17 373:3 486:14	pause	151:3,16 152:3,16 153:8 359:9 360:7	phone	136:20 138:23 218:9 219:10 317:4 318:20,20 451:24 451:25 452:9 463:18,22 471:6	plaintiff	125:6,16 126:6
pause	202:20 258:2	pay	364:11,14 365:2 369:18 371:10,18 371:19 372:24	phonetic	168:3 217:22 235:7 247:17,19 248:9	played	283:4
pay	151:24 165:15 165:19 421:12 423:14	paying	373:3 376:10,23 377:6,17 383:10 387:4,19 388:19 484:14 486:14	phrase	132:9 243:2 286:9 290:24 401:25	plea	196:5
paying	277:3 315:10 439:7 475:11 476:10 478:18	perfect	412:14,16	physical	191:19 193:6 210:20	pledge	478:22 479:2,4
people	132:19 133:17 135:9 146:12 150:14 151:24 168:23 169:23 181:18 182:3,11 186:6 192:21 201:22 202:3 204:19 206:2 210:6,14 211:7,9 213:7,17 214:3,22 219:14 220:2 221:15 222:6,20 224:11 225:15 247:10 267:7 276:21,23 277:2,5 284:14 286:9,10,14,15,18 286:19,20,25 287:3 310:2 319:7 320:7 354:8 381:5 381:9 405:20	perfectly	226:14	person	151:16 176:4,5 192:19 200:5 212:19 260:14 287:22 291:4 330:7 345:5 399:8 451:14	pleaded	196:3
		period	131:24	persona	213:7 223:19	pleading	433:13 479:18
		perla	135:14	person	151:16 176:4,5 192:19 200:5 212:19 260:14 287:22 291:4 330:7 345:5 399:8 451:14	pleas	152:25 437:10
		permanently	334:21	physically	161:16 184:19,20 381:7	please	140:12,14 154:10 156:21
		pick	243:10 443:10 455:20	pick	243:10 443:10 455:20	pleas	162:25 164:3
		personal	134:19 205:13 221:5,6,11	picked	373:14 403:13,17,22	please	190:12,15 224:5 226:17 230:14 251:23 265:14 276:8 323:22,23 325:6,9,12,22 326:9,24 333:6
		piece	221:12 250:15	piece	141:10 249:24 459:19,20 461:21,22 477:6 478:13	plenty	334:3 338:16 359:2 376:13
		personally	238:8 238:10 466:9			plus	400:25 422:6 426:18 439:23 448:17 456:25 201:11,24 229:21

[po - profane]

Page 36

po 344:8	portion 144:17,22	220:22 232:25	314:13,14 317:18
point 133:14 159:4	193:23 243:12	236:12 261:4	323:18 372:19
159:4,19 161:6	274:22,23 311:19	307:20 330:17	471:9
164:24 165:11	325:8,11,12,13	442:13	problem 168:16
166:11,16 171:19	326:3	present 126:13	171:16 176:24
174:19,21,22	portions 254:12	130:16 250:17,19	199:13 218:22,25
186:5 215:4	position 224:24	386:5,13	250:15 258:2
218:12 232:16	376:25 468:4	presented 189:17	345:13,14,15
238:20 249:15	possible 159:12,20	224:15 225:3	358:2,3 390:19
257:3 262:18	171:2,4	294:9	399:14,20 400:20
266:16 267:10	post 230:8 233:9	presenting 292:10	410:7,7 416:8,9
268:16,19 270:12	postponed 196:4	presents 172:17	432:16,17 469:5
270:13 271:3	practice 136:10	234:10 396:11	problems 227:12
273:4 276:13	137:18,20 138:5	president 176:25	328:4
285:20 296:16	342:20 398:10	177:10,12,15,17	proceed 226:17
319:5,17 332:17	417:21 418:8	178:9	319:19
340:22 342:4	424:9,18 426:23	pretty 196:2	proceeded 239:12
347:15 362:5,15	432:12 436:22	203:19 215:20	363:3
368:12,18 378:21	440:13,13 442:15	217:2 330:7	proceeding 310:22
379:14 383:17	442:25 444:23	365:16 409:14	341:19 411:16,20
411:21 424:12	practiced 475:15	prevent 135:13	process 385:25
428:24 429:3	practicing 132:4	previous 193:16	386:6,8,24 387:9
435:22 443:9	137:7 139:5	208:16 237:13	388:3
470:17	398:19 427:11	301:24 331:17	produce 366:17
pointed 251:4	455:22 456:2	336:13	367:3 445:14
289:10 436:8	pray 405:20,22	previously 298:25	446:8 447:7 448:8
pointing 149:14	prayers 405:21	336:6	448:16 449:6
157:22	praying 405:22	prickett 406:19	produced 145:19
points 478:24	precipitated 302:8	409:11 410:15,24	145:20,21,23
poke 436:12	precisely 255:5	413:4,12,21 440:3	155:15 162:16
police 139:8 150:3	predicament	487:3	193:25 209:11
151:5 200:19	468:13,18 469:13	print 481:24	358:10 359:14,15
295:8 307:20	prefer 481:15	printed 171:17	366:16 445:11
356:9 362:13	pregnant 206:10	prior 296:4 299:16	447:8
363:17 368:20	prejudiced 434:18	300:12 303:6	production 228:11
373:25 374:24	premises 210:19	305:8 334:14	252:10 265:19
378:19	presence 142:5	pro 126:6	279:14 323:12
policeman 205:4	182:12,14,16	probably 132:18	324:24 327:9
polite 251:15	210:18 211:24,25	132:22 133:8	333:2 408:11
politely 256:25	212:8,9,12 213:4,5	173:22 260:19	profane 200:13
	213:7 214:4,7,9	262:25 306:23	203:6,16 204:9

[profanities - rabinovich]

Page 37

profanities 147:19	pto 138:9	276:2 284:7 291:3	385:8,20 386:22
profanity 148:3,8 148:10,16	public 125:19 483:24 488:6	292:21 302:19 303:9 305:5 309:3	386:23 387:8 394:23 404:25
professional 296:13 488:5	489:25	309:16 310:10	406:4,4 414:7 418:4 419:9,13
progressed 185:16	pull 291:21 292:5	335:24 352:23	420:2,7,14,15,19
progressing 185:24	punch 231:15,22	354:3,3 359:8	421:4,22 422:3
prohibition 399:10	235:17 245:19 272:22 277:21	374:25 384:5,8 411:9,23 415:3,12	423:3,17,22 425:4
promised 296:17	283:14,18,22	416:16 417:8,15	430:8 431:14,16
proof 366:24,24 429:19,19,24 430:13	284:8,9 290:25 292:13 302:9,9	418:13 423:17	445:4,4 472:5,7,25
properly 440:14	303:8,11 305:10 305:12,23 306:11	425:16 437:10	473:2 476:6,14,24
proposition 133:11	306:13,24,25 338:7	439:18,21 440:20 447:12 449:18	481:2,7,15 482:13
prospective 130:23	punched 278:18	451:7 462:21	questioned 403:20
protect 346:10	punching 291:19	463:19,21 464:5	questions 188:21
protecting 419:5	291:20 292:3	464:22 466:23	319:14 479:24
protection 416:5 434:3	301:17	467:3,5,20 468:15	quick 144:11
protested 250:6	punished 131:11	469:12 470:12,18	224:7 319:14
prove 150:25	punitive 249:10	471:2,17 480:8	340:18 396:24
provide 429:19	purpose 150:15	puts 322:17	quickly 365:16
provided 429:20	159:21 390:24 394:17,21	putting 417:3,4	quiet 249:23
provocative 261:16	pursuant 125:17	418:19 459:15	316:17 317:23
provoke 262:19 377:17 378:9,16 379:9,11,14 380:3 380:6	push 477:15	q	318:3,8 375:12
provoked 378:13 380:5	pushed 345:7 430:6 477:14	question 130:7,20	quietly 398:20
provoking 243:22 377:24 379:15,20 382:8 410:5	pushes 346:21,22 347:5	132:2,8 136:22	399:12 405:24
psycho 401:8 403:16 404:11 407:9,15 412:4	put 129:21,21 130:9 138:15 144:4 148:6	140:16 143:13,18 143:20 152:15,15 158:25,25 159:6 163:20 181:25 182:2 187:23	quite 152:15
	164:12 165:18 169:15 172:9	188:11,16 189:25 191:18 193:5 194:14 222:12,12 250:23 257:24	245:24 272:10
	182:6 221:12	258:5 290:23 297:8 298:7,7,13	279:7 358:15
	230:8,22 233:10 233:16,25 240:7	299:15 300:2,11	427:16
	240:10 245:17,17 251:19 257:5,6	303:16,17,18 318:15 340:4,6,18	quote 171:18
	273:25 274:25	351:6 358:4 380:11,19,25	241:4 242:25
			260:13 261:13
			262:7 264:16
			283:8 284:7
			340:25 364:16
			454:8 462:5
			r
			r 126:2 253:13 488:2
			rabinovich 147:20 148:22 153:9

[rabinovich - referred]

Page 38

157:16 161:4,17	272:25 362:18	246:2 250:11	348:9 353:2
183:13 186:11	417:3,5,9 437:18	271:4,23,25,25	359:11,13 371:14
316:2 437:8	458:10 460:20,21	272:3 277:19,20	376:5,6 389:13
479:13	460:25 461:3,14	278:7,20,24 279:5	397:21,22 408:4
races 237:22 435:5	463:9 467:9	279:8 281:15	449:25 456:20
racial 141:17	reason 132:24	285:16,18 286:16	457:8
142:10,10,15	134:12 136:19	287:4 296:23	recollection 205:7
racist 235:25	142:6 153:5 175:9	297:9,10,15,18	281:10 349:8
237:6,24 238:6	178:4,6 179:7,7	298:8,14 299:21	350:3 372:16
247:5,6 435:7	180:13 181:11	303:19,21 304:2	373:19 462:9
rail 455:10,12	187:6 199:14	306:23 316:23	reconsider 316:18
raising 437:6	201:10,22,23	318:10,16,21	reconvene 227:4
rant 242:24	232:23 233:14	358:6 374:11	record 127:3
ranting 464:12	234:19,20 237:10	400:3,9 425:5	145:18 185:20
rappel 485:19	239:18 251:11	448:2 449:11,12	190:3,10,12,12,15
486:2	257:14 273:13,14	463:8 470:11	190:17,20 227:7
reach 229:17,23	276:3,5 281:21,22	receipt 154:23	227:10,16,20,23
268:5 319:7	290:5 302:16	366:15,16,18,23	310:6,9 332:24
reached 322:16	314:22 329:11	367:2,4	396:24 397:6,9,11
reaching 233:13	346:8 390:7 391:3	receive 408:24	397:15 423:17
read 144:17	393:8 402:9	409:9 482:7,8	425:17 426:9,12
218:18 219:12,13	420:16,20 421:5,7	received 188:24	477:3 480:5
219:14 243:10,13	421:8 422:23	190:24 300:15	483:13
272:10 328:8,13	423:8 427:9	301:2,15 333:16	recorded 483:7
334:14 456:23	465:18 466:4	333:17 335:15	rectified 183:6,8
457:2,5,7 464:18	475:10,12 476:24	336:11,15 342:3	rectify 182:21,23
real 143:5,21	489:8	349:13 408:24	redacted 194:23
148:24 167:7	reasonably 255:18	recess 190:18	195:3,5,8
243:22 262:21	reasons 136:19	227:8,21 310:7	redactions 194:14
274:5 469:5	307:5 316:9	397:7 426:10	redirected 430:10
reality 304:24	381:17 418:23	reco 457:8	reestablished
realize 215:17,22	421:24	145:10	133:15
407:2	recall 149:8 150:2	145:12,24 162:12	refer 457:4
really 132:20	150:5 159:3,13	193:20,22 208:24	referenced 482:25
139:24 140:20,22	160:25 161:2,3,5	227:25 228:3	referred 155:3
167:10 174:19	165:21,24 166:6,8	265:22 279:17	156:23 163:2
196:6 228:25	166:14 168:9,19	293:2 310:11	194:10 210:10
229:3,9 234:8	169:10,12 175:12	323:15 324:5,6,8	228:16 252:3
241:5 259:21	177:5 206:16	324:14 325:19,21	262:8 266:9
266:16 267:11,14	208:15 229:25	325:24 327:6	280:14 293:8
267:18,18 272:21	243:25 244:14,25	331:20 343:2,9,10	311:10 326:19

327:18 333:7	423:13 434:8	378:23 393:20	reporter 144:19
338:19 343:16	441:13,14	394:2 444:17,20	145:6 154:8,12,18
348:22 359:4	religion 237:15	444:25 449:22	154:20,25 155:2
360:3 372:8	religious 301:6	460:17 462:12	162:5 190:2,6,11
376:14 396:17	303:7,25 305:9	remembered	194:8 226:4,18
407:23 408:16	remain 410:9	289:8	227:2 243:8,13
456:13 458:2	remark 142:10,11	remorseful 303:10	326:12 425:22
referring 183:12	142:15,16 235:25	305:11	426:4 456:6 480:9
215:9,13 286:20	235:25 237:7,24	remote 483:8	481:12,17 488:5
295:24 301:22	247:5 286:24	removal 138:3	reporting 489:2
312:2,24	287:23 435:8	321:22 340:4,6	reports 150:9,11
reflects 129:24	467:25	removed 129:16	150:13 469:18,20
refresh 205:6	remarks 260:13	136:19 138:21	represent 130:18
262:11 281:9,12	remember 155:12	234:19 235:2	336:4,12 342:12
372:16 373:18	159:10 160:3,16	248:21 249:2,8	343:22,24 360:10
462:8	160:18,23 167:10	316:3 347:15	370:10 374:21
refreshed 264:5	185:12 189:8	472:9,15 474:21	376:23 383:9
refuse 175:11	191:3,10 197:8	repair 274:17	389:24 413:13
refused 175:9	200:24 201:3	repeat 178:15	469:19
269:24 270:9	215:10 217:12,16	repeated 146:12	representative
425:14	217:18 231:6	243:2	151:23
regarding 344:2	239:25 240:3	repeatedly 368:16	representatives
regardless 229:22	246:5,6 253:3	368:22 396:13	343:7
registered 488:4	254:13 260:20	repeating 286:9	represented
regulation 385:9	263:25 264:8,19	rephrase 143:12	134:18 237:21
385:21	264:20 269:21,22	143:17 290:22	310:21 322:24
regulations 415:2	270:5 271:2,11,13	300:2	360:12,13,15
reinstated 137:24	271:13,23 272:4,5	report 150:3 151:5	361:6 375:20,21
relate 460:15	272:7 275:19,20	158:10 196:23	375:24 379:4
related 488:12	276:2 277:21,24	200:20 327:19	411:15 412:23
relation 450:13	289:4 294:23	343:3,5,17 344:23	414:9 442:5
relationship	295:9 296:2,8	345:24 357:12	representing
163:10,15,16,21	297:11 298:21	360:12 370:13,25	439:7
163:23 195:15	307:22 313:12,13	375:23 376:9,15	represents 136:13
228:23 253:9	313:15,16 314:4,6	383:6 477:18,19	164:21
458:8	318:18,23,23,24	485:22 486:7,19	reputation 127:14
relevant 445:19	324:13,15,16,18	reported 309:9	127:24 128:3,24
446:14 449:4	325:2,2,18 326:2	345:2,12,25 347:7	129:8 130:5,10,15
relief 409:25	326:22 328:23	355:25 358:13,20	131:10,18 132:3
412:18 417:19,20	336:25 359:10	415:5	132:11 133:7,14
417:25 418:10	360:8 367:11		133:15,20 134:14

[reputation - ring]

Page 40

134:15 135:8,12	321:13	rest 271:22,23 281:2	230:23,23,25 234:7,18,21,24
135:19 136:8,12	respect 141:5 446:10	restate 353:17 result 321:22 339:6	235:17 236:2 238:22 241:15 242:7,7 253:18
136:25 137:9,12	respected 140:6 140:18	resultant 127:13 resulted 280:19 retiring 135:9,10	255:3 260:8,9,23 288:25 290:8,10 298:17 303:15
137:25 138:12	respectful 148:14	return 342:20 returned 194:21 revenue 127:20	307:4 309:18 310:5 311:8 318:21 320:10,16
139:3,5 208:9	respectfully 141:14 179:23,24	130:23,25 131:3,5 131:7,13 137:4	320:19 326:11
211:3	188:13 246:19,20	reviewed 331:22 reviews 139:8	331:12 338:11
reputational 130:22	respond 143:7,9 144:5,6,8 151:13	richard 252:11 253:4 485:5	339:12,13 340:4,5 340:8,12,15,19
request 255:19 429:19 448:17,18	179:11 191:15 192:8,9,16,23	rick 240:16 rid 312:2,9,15,23	341:12,22 343:13 344:4,23 345:25
requested 196:22 243:12	204:6 211:5 221:23,23 222:4	342:5,18 357:20 395:12 418:5	348:7 354:2 366:10,14 367:2
requesting 293:24 448:19	260:23 261:5,5,6,9 265:5,11 288:12	ride 267:13 ridiculous 306:15	372:20 387:2 388:5,7 389:11
requests 446:5 484:7	295:5 299:6 300:17,19 303:23	348:19 350:25 351:3,4 387:5	396:14 407:13
required 164:6 175:3 218:10	304:6 334:19 340:8 352:11,12	388:25 394:10,11 394:15 466:24	409:18,18 411:16
231:25 259:25 260:2 334:6	380:14 383:25 413:8 431:17	467:7,21 469:12 right 129:17	411:23,24 412:10
requirement 337:15	440:5 441:17,23 441:24 450:12	134:13 145:15 147:7 149:5,6,7,13	412:15,15 414:16
requires 385:22	469:15 responded 191:16	151:14 153:3,15 157:19 158:6	414:19,20 423:6,9
requiring 385:10	300:20 381:23 399:22,23 441:18	161:22 168:11 174:17 175:24,25	425:11 433:9
rescheduling 152:23 479:17	460:14 responding 202:10	177:9,11 178:11 188:8 190:3	436:7,8,10 438:19
reserve 340:4	202:11 446:4 response 143:10	202:11 206:8 208:8 209:16	440:6,11 441:9
reserves 334:19	143:15 151:12 179:3 202:21	210:15 211:16 212:17 230:13,23	446:23 447:2,3
resolve 175:7 176:2,8 177:20	206:13 264:25 386:6 413:9	212:17 230:13,23	448:10 449:17
185:9 187:4,10,18 188:6 192:10,16	430:24 431:9 responses 442:6	rights 334:19 ring 223:13 286:4	452:2,4,11 455:17
192:24 193:3 211:5 212:18,24	434:17 responsibility	454:22	456:19 457:16,17
212:25 213:15,24 220:14,15 221:24	364:17		461:7 468:6,20
223:22 294:10,11 439:25			471:10 480:16
resolved 175:15 175:19,22,24			481:21 482:4,12
176:19,19 186:17			482:21 483:3

[rings - seat]

Page 41

rings 284:17	rpr 125:18 488:18	224:20 236:18	196:13 200:7
rise 257:14	rubinowitz 146:3	249:18,20 292:18	203:13 229:5
rivers 469:24	rude 268:8 269:14	312:12 325:4,8,10	231:2,4 241:3
470:4	ruin 208:9	325:10,11 333:19	242:17 254:25
road 138:13 489:4	ruined 129:3,4	333:22 336:8	256:22 268:2,7,13
rochelle 126:5	136:2,3	349:11,12 352:9	272:11 274:24
role 322:23	rule 139:21,22	353:3 358:10	289:11 294:13,15
room 146:22,24	rules 296:18 322:7	359:14,20,22	298:17 316:15
149:2 213:8	415:2	405:4 416:23,24	325:9,22 334:3,19
229:23 230:4	run 244:13 245:25	417:17 421:17,19	346:25 360:12
239:24 240:2	264:17,21 383:16	422:17 424:10	361:19,20 365:25
241:2,13,16,22	rushng 354:9	430:17 442:16,25	370:25 372:14,25
252:18,19,19,25	russian 149:15	444:23 459:11,12	374:9 393:6,16,23
254:2,5,6,7,12,16	157:21 160:5,5,8	475:7 476:19,22	398:9 399:19,20
254:25 255:4,22	160:11,13 165:2,4	saying 142:6	442:24 459:4,19
261:20 264:3,13	165:6 247:2	150:14 151:9	467:3 472:11,13
268:3,9,10,20	s	184:9,10,11,15,16	scanned 482:19
269:13,16,20,21	s 126:2 398:23	184:18 201:21	scare 184:20
269:22,23 270:23	429:9 489:8	202:6 220:3	scaring 184:19
270:25 271:12	sadiq 265:20	222:21 238:13	schmooze 181:12
272:4,7,9 273:5,16	266:13 270:6,6	244:14 245:2	184:7 229:11
277:16,22 283:6	485:7 487:6	246:2,5,6 250:11	schmoozing
295:8 299:23	safe 161:15 250:22	250:20 263:25	184:17 315:2
301:5,9 304:14,16	311:13 339:2	264:19,20 268:6	scream 301:11
307:17,19 308:2	safety 128:14	268:17 271:2,24	screamed 202:6
311:24 370:11,12	179:15,20 210:21	275:20 276:2	screaming 147:3
370:18,24 450:24	211:10 220:4	281:7 286:16,18	147:19 149:16
451:17,22 452:21	221:17 222:8,22	286:19,24 287:4	157:21 158:8
452:25 454:24	223:2	313:6,12 318:23	159:18 160:4,8,9
458:16 459:12,16	sarcastically	339:20 357:5	215:25 216:8
462:2,14 463:2	178:11,13	362:7 380:21	218:23 453:5
464:4 470:9,10,15	sat 328:7 361:3	381:10 398:4,23	screen 155:9 162:2
470:23	452:24 454:16	399:23,24 400:12	226:3 227:13
rooms 281:6	462:22 470:11	400:18,25 401:18	252:2 373:7
rose 155:23 157:7	473:12	402:2 404:3 450:4	456:17
ross 247:25	saw 143:6,7,10,14	460:6,9 471:17,22	scroll 323:19,22
roy 155:20,21	143:16 147:17	477:13	456:22
156:7,8,17 224:10	151:3 152:22	says 146:16	se 126:6
484:16	157:4 159:10	151:19 155:20,21	search 448:8
roy's 156:3 224:23	192:20,22 193:6	158:4,15 172:5	seat 148:22 240:24
	199:7 201:15	173:2 185:5	

[seated - show]

Page 42

seated	155:21	336:23 337:13	238:6 247:4	shaking	308:24
second	136:20	338:24 347:19,20	280:20 281:7	share	155:9 162:3
138:23	144:11	347:22 348:11	286:24 287:23	162:6	226:2
175:13,14	176:15	352:22 354:24	435:7	227:13	252:2
240:6	252:22	355:7 359:7	send	480:13,14	
261:21	262:2	379:16 382:22	273:10	she'd	196:11
264:3,4,7,13		402:23 408:23	342:15 406:21	316:18	
306:10	325:4,5,11	426:14 427:8	408:8 409:19	sheet	489:2
336:21	353:16	430:18 448:15,22	411:8 480:19,19	sheldrake	126:5
security	308:22,25	449:18,20,21	481:3,5	shifted	229:22
309:7	346:8,13,24	456:16 457:13	senior	shine	392:11 393:7
353:20	354:21	459:13 469:3	294:20	shit	398:5,11,22
355:14,16,21		472:22 476:19	451:18	399:7,17,22,25	
356:21,24	357:2	seeing	207:16 213:9	403:15,23	404:3,9
362:11	363:16	145:5 195:7	341:15 390:22	406:15	407:17
367:22	368:19	324:15 325:2,2	391:4,5,13	450:4,5	453:7,20
373:24	374:23	326:23 337:2	sent	453:22	454:5
378:18	389:5	410:4	139:7 311:4	459:20,20	460:3,7
415:17	428:20	seek	325:6,13,17,23	461:22,22	
429:13	433:3	138:14,18	326:8,24,25 327:2	shocked	200:9
see	127:7,11,15	141:2 439:9	331:22,23 336:14	shop	274:17
144:13,16,19,21		seeking	341:25 342:8	short	190:18 227:8
144:22	145:11	412:18	352:11 389:25	227:21	310:7
153:25	154:4	417:17,19,20,25	406:18,19 408:22	397:7	426:10
155:10,14	158:3	418:10 434:8	412:22 429:21	455:8	
162:8	168:12	475:9	430:16 441:11	shortly	433:21
174:14	175:6	seen	separate	shout	301:11
177:4	178:22	143:10	221:15	303:25	
180:14	193:17,24	186:13 224:14	separately	shouted	270:20
206:3	208:19	254:23 323:18,20	288:24	shouting	150:12
209:15	214:20	368:11 370:9	380:15,15,17	269:15	301:6
219:25	224:8	371:21 375:20,23	september	303:7	305:9
239:13	248:24,24	379:3 383:3	398:11	show	128:2,8,11
252:6	261:18	397:24 456:23	series	128:15,17,23	
265:15,18	276:22	semite	345:4	133:24	135:20,21
277:4	279:9	142:4	seriously	142:13,16	187:17
292:21	300:3,10	230:17 231:5	365:12	241:5	255:25
302:21	306:2	233:5 235:20,22	403:8 437:15	314:20	320:15,15
310:23	316:10	236:3,5 237:9	474:23	371:13	389:12
323:8,18	333:25	243:16 245:8	service	397:20	466:3
334:2,12,18		257:3 261:2,24	179:14	474:20,25	
		268:15 270:19	377:20		
		281:21 304:19	serving		
		308:4	295:15		
		semitic	324:2		
		142:11	485:20 486:2		
		235:25 237:6,24	seven		

[showed - somebody]

Page 43

showed 137:4 315:11 327:23	signs 196:18 similarities 150:10	480:24 483:6 size 365:16,18 skinny 455:9 skipping 326:5 slash 361:22 362:3 362:8 363:6 364:23 367:8,13 367:15 368:14,17 368:23 373:22 375:11 377:13 382:4	smart's 362:12 434:16,24 smarts 353:12 smashed 281:4,25 smile 177:8 smiling 178:24 smirk 176:18,21 177:18 178:10,12 178:12,17,17
showing 128:25 227:24 314:19 317:14 320:9 327:5 465:14,16 465:17 474:23 482:15	single 286:11 287:8 384:3 sir 329:13 349:25 371:14 389:14 431:18	slashed 363:15 374:19 379:17	smirking 176:13 176:22,24 177:2,5 177:7,8,20 178:3,8 178:19 330:23,24 395:8
shown 181:4 220:8 220:9 225:18 324:20	sit 219:8 255:17,22 256:9,12,15,21	slashing 365:21 slice 388:19 slurs 280:20 334:11	smirks 176:25 sneeze 320:22 321:2 339:16 414:5
shows 136:12	289:12,13 375:12	smacked 283:11	socialize 195:22
sic 331:18	451:8,12,13,15,16	small 230:6	soft 454:8,12,14 454:20,25
sick 399:24	451:20 452:5,9,11	smarks 429:10	solicit 196:8,9,10 196:19 199:9
side 241:15 268:4 269:7 386:9,10 387:16 438:18 440:15 468:10	452:13,19,20,25 453:17 462:14,15 462:18 463:17	smart 344:6 345:4 345:10 346:5	soliciting 196:20 198:9,10,20,23 199:4,15,16 201:16 206:20,21
sided 385:16 386:18	sits 241:25 sitting 148:20 218:8 219:7,10,11	smacked 283:11 small 230:6	solve 176:4,6
sign 209:9 220:2 309:14 322:10 324:3 332:21 333:13 335:3,4,5,7 340:10 345:8 366:19 416:10 435:24 437:4	219:16 241:24 242:7 269:16 283:6 292:13 295:9,10 313:19 314:3 318:9,15 328:2 350:2 360:19,20,23	smarks 429:10 smart 344:6 345:4 345:10 346:5	somebody 136:12 138:24 159:15
signature 337:12 457:13,14 488:17	372:14,18 452:16 453:13,14 470:16	406:25 407:2 410:2,2,5 412:19	169:20 170:9
signatures 210:3,5 210:11 222:21 224:9 294:6 484:24	471:5,9	413:10 415:5,9	176:3 180:3
signed 209:8 210:14 224:11,13 293:23 322:5 332:22 335:6,8 340:7 344:2 353:4 402:24	situated 281:5 situation 147:13 175:8 205:18 212:4 270:24	416:2,7,25 417:9 417:16 418:6,13 419:17 421:17 424:19 428:24	183:20 203:15 204:17,21 218:13
signing 208:22	372:24 375:2,4 382:21 415:15 436:21	429:9 432:8,10,14 434:23,25,25 435:17,22,23 436:22 439:6	223:8 288:11 290:25 291:2
	situations 205:17 six 206:10 230:5 241:13 243:2 255:5,10 450:25	444:5 459:8 477:14,22 486:11	306:13 354:3 381:8 386:10 417:20 436:8 476:25

[somebody's - statement]

Page 44

somebody's	169:24 170:22	spilling	230:11	
436:12 473:12	171:3 176:3 189:2	spoke	165:4,6	
someone's	205:13		192:4 197:12	
someplace	138:19		205:2 262:7	
234:7 235:15	213:21,21 258:2		263:23	
394:16,18 424:18	363:2 393:18	spoken	181:5	
442:25	413:23 414:2	staff	196:22	
soon	170:16		234:18 293:22	
199:7 346:19	199:23 203:15	stamped	162:16	
458:16	296:9 399:11		209:11 292:24	
sorry	456:7		310:24 327:9	
132:8 145:6	speaks		348:6 372:3 398:7	
170:23 202:19	380:11		450:15 484:14,17	
214:6,6,7 220:23	453:24		484:19,21,24	
257:25 279:6	spear		485:3,5,8,10,13,16	
280:5 283:21,25	309:14		485:20,24 486:3,9	
284:25 353:15	345:8 416:10		486:12,14,17,22	
354:22 358:15	435:24 436:3,11		486:25 487:4,7,9	
389:9 404:23	436:23	stanchion	373:12	
453:17 457:25	special	170:10	statement	147:16
465:13 466:10	428:12,12	standard	151:8 152:3 155:4	
472:20 480:25	specific	427:10	156:24 159:7	
sort	162:18	427:13 473:20,24	163:3 194:11	
178:24 218:19	169:11 192:7,8,14	473:25 474:4,5	207:4 210:11	
380:7,11	202:13,24 203:18	483:12	228:17 237:5	
sounds	203:19 475:21	standards	238:4,5,6 243:17	
307:15	476:23	standing	244:2,19,19,21,24	
south	specifically	205:4	245:2 246:4,13	
164:22	136:5	257:8 264:10	248:19 249:9	
210:17 215:6	136:23 415:3	273:5 368:21	250:3,4 252:4	
316:22	specifics	379:12 426:24	253:21 254:10	
space	180:14	427:16	start	242:4 248:4,7
205:13	184:21 192:13	266:10 267:21	266:10 267:21	
spade	203:11 204:20	258:4 320:20	280:15 281:16	
247:7,8	208:10 210:25	357:24 378:22	293:9 303:3	
409:24,24 412:21	211:4 217:17	465:9	306:15,20 318:13	
412:21 415:8,8	220:15,20 221:20	started	318:13 335:3	
419:2,2 425:10,10	222:10 223:21	218:23	348:23 360:4	
430:24,24 432:18	speculate	246:10 269:15	364:12 369:18	
432:19 433:6,6,16	370:22	277:17 301:10	372:9 381:14,16	
433:16 434:15,15	speech	309:9 357:3 374:5	385:17 386:14	
435:11,12,15,15	204:8	446:24 453:5	392:20 430:20	
435:18,19	401:11	464:12,17	431:4,9,21 432:6	
spanish	speed			
197:13	283:10			
sparks	spelled			
428:21,24	253:16			
429:11 430:10	419:21			
speak	spells			
154:13	253:14,19			
157:5 168:22,23	spent			
	346:10			

[statement - suspend]

Page 45

443:12,17,23	stick 202:12 392:10 393:7	strictly 334:5 strip 437:22 stripper 437:23,23 strong 182:12,14 182:16 211:23,25 212:7,9,12 213:3,4 213:6,7 214:3,7,8 320:14 stipulations 480:7 stole 309:8 344:24 345:11 356:2 430:7 stood 199:21 437:4 463:19 stop 162:2 203:15 270:21 286:6 296:13 301:5 405:15 416:3,25 419:19 421:20 424:16,25 425:7 425:12 432:14,24 436:2 439:16 stopped 243:9 301:18 373:13 374:6 378:10 382:11 419:8,11 477:25 stopping 190:7 421:3 stops 218:14 378:22 store 455:20 story 152:10,12 156:4 219:14,24 232:6 254:4 263:13 302:2,3,6,7 379:6 387:17 440:19 466:3 468:10 straight 289:21 436:7 437:25 street 126:9	strictly 334:5 strip 437:22 stripper 437:23,23 strong 182:12,14 182:16 211:23,25 212:7,9,12 213:3,4 213:6,7 214:3,7,8 320:14 strongly 262:7 studying 223:12 stuff 181:16 339:12 391:25 437:11 445:8 446:24 448:24 453:16 458:19,19 458:19 459:3,5 462:4,7,18 471:16 473:10 stupid 354:16 391:23,25 392:4 submitted 194:20 194:25 197:2 371:25 subscribed 483:18 489:22 substance 143:4 191:2 234:23 235:10 384:19 sudden 227:14 suddenly 283:9 suffered 136:7 suicide 465:11 467:16 suit 360:24 sum 234:23 235:10 summonses 207:21,22 sun 392:11 393:7 supervisor 159:25 185:8,11 186:15	224:10 376:20 supervisors 175:5 210:16 supervisory 377:3 supply 450:12 supporting 312:13 supposed 139:22 199:9 321:24 332:9 383:16,19 415:11 suppressing 317:24 sure 142:19 145:14 146:6 154:12 156:13 166:2 173:16 175:18,22,24 177:13 180:11 187:2,14 189:15 193:13,23 224:2 227:2,18 241:18 243:20 245:23 254:15 270:5 273:8 304:11 305:20 317:8 323:21 324:23 331:10 347:24 371:17 382:13 409:14 426:6 431:25 449:23 464:19 surrender 340:15 341:21 surrendered 341:11 surrounded 236:14 suspect 151:22 319:11 418:15,18 suspend 371:6
--------------	-------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[suspended - tell]

Page 46

suspended 361:8 361:14,23 364:3 364:20,21 370:17 371:6,7 376:2	226:23,24 231:25 233:9 238:10 244:3 263:19 269:5 291:13,25	318:2 331:7 363:7 363:21,22 368:24 369:2,4 374:3,4,6 374:12,15,17	taunt 176:15,16 taunting 176:11 178:24
suspicion 259:3	293:12 296:15	375:5 378:20	taxicab 437:20,21
suspicious 330:5,7 330:9	309:22 310:3 320:2 321:15,17	382:6 389:6 396:25 404:12	tell 129:3 133:24 134:4,9,11 148:11 148:17 149:18
swapped 145:4	322:3,11,19	413:16 430:9	150:7 169:21,21
swear 400:24 401:7 404:10,10 412:2	324:17 332:12 333:20 335:10,12 336:16,19 338:4,5	432:23 458:10,10 471:21	169:24 170:10,14 178:20 180:16,17
swearing 400:15 403:16	338:8,9 339:8 354:5 356:18,25	talked 148:12 228:24,25 229:7 253:10 259:18	180:18,19,19 181:23,24 182:5,6
sworn 174:10 483:18 488:8 489:22	360:25 361:4,17 361:17 365:4 366:4,15 367:20	313:10 328:3 429:8	182:7 184:21,23 186:2,12,18,19,22 186:22 187:9
swung 373:12	368:2,15 373:9	talking 171:11 215:18 216:7,17	190:25 191:23,25 192:2,11,15 195:2
system 387:24	374:10 380:9 388:9,11,18 389:7	225:23 229:14 258:4 287:4	202:8 203:5,6,7,10 204:4,4,14 205:22
t			
t 485:22 488:2,2	396:23 397:16,17	293:25 299:5,7,11	205:23 208:5
tahir 244:8 265:20 266:3,13 269:12 271:16 272:8 273:9 274:21 275:17 276:10 277:15 402:24 405:8 407:21 449:24 450:3,9,17 451:11 452:15,25 454:6 455:3,22 456:12 458:15 462:6,17,24 463:22,23 464:7 469:18 470:13 472:7 485:8 487:7	406:23 426:5 427:12 428:7,14 436:9 439:23 441:4 449:7 474:16 481:22,25	301:23 313:4 315:2,4 344:17 372:23 380:17 381:4 389:18 403:15 435:14,22	210:24 212:23 220:20 221:21 222:10,25 223:2 223:21 225:9,11 230:3 239:12
taken 125:17	128:4 190:18 227:8,21 248:18	478:6	254:11 258:12,15
	249:13 310:7 373:11 382:17 397:7 426:10 483:9	talks 127:12 268:17	260:21,25 269:8 278:13,14,15,16
tahir's 266:25 268:18 462:19	takes 384:7 387:22	tall 161:7 455:8,13	278:17,25 285:14
take 127:25 128:7 128:10,18,22 166:12 188:25 190:25 226:5,13	talk 130:17 139:23 140:2 141:15 164:9 181:15 185:10 195:21 204:12 216:2,4,6,9 216:10,11,12,14 224:22 231:12 274:5,20 294:14	tampering 459:9 tanya 146:3,13 147:20 152:20,21 152:22 153:7 155:23,24 156:18 157:8,9 158:3 184:4,6 316:2,5 437:8 479:13 tape 346:24 target 454:8,12,14 454:20,25	294:10 296:24 299:4 300:22 308:3,15,17,18,19 308:20,22 312:4 344:9 345:17 346:23 348:17 349:3 350:9,11,18 350:23 351:8,14 353:24 363:14 366:12,19 367:9 367:12,13,19,23 380:2,3,5 382:17

[tell - thompson]

Page 47

386:9 393:3,5,9,11	temper 257:13	380:2 445:13	430:16 434:15
393:13 399:15	tenth 425:2	446:11 469:22	435:13 442:13
400:25 402:25	term 212:11	think 131:19	443:13,19 445:10
404:11,14,15,18	terms 135:25	141:6,11,12	445:18 446:13
412:25 414:4	136:2 257:13	145:20 153:8	447:10,16 454:7,9
415:24 416:17	321:12,15	168:20,23 174:13	455:24 456:2
423:25 425:9	terrible 196:7,14	174:16,17,19,21	457:12 473:11
432:4,7,25 433:2,6	196:17 198:22,25	174:22 176:24	474:21 475:2,3,5
435:20 441:6,8	247:25 273:18	197:14 200:4	475:10,12,14,20
442:10 467:20	361:14,15	202:17,21 207:18	475:22,25,25
468:15 469:11	terry 167:22	207:24 209:24	480:10 481:17
474:15,16 480:8	testified 188:23	210:22 220:6	482:19
telling 147:14	190:23 191:5	221:16 222:2,5,14	thinking 168:15
148:2,7 155:23	248:13	222:16,19,20	234:9,9 250:16
156:4 157:20	testify 415:20	223:4 225:19	351:14
158:20 159:2	testifying 191:4	233:15,16,16,23	thinks 393:14
161:2,23 174:5	testimony 174:2	236:4 240:3,15	451:11 454:7
177:16 202:3,4	207:9 233:3 254:8	245:15 246:14	third 242:5,15
206:18 245:7	278:4 359:19	251:18 252:25	thompson 126:11
258:9 263:9 270:2	430:2 433:20	255:13 258:3	127:5 144:18
281:19 307:18	447:5 484:3	259:12,15 261:6	145:2,8 154:7,17
328:10,12 329:5	thank 127:6 164:3	262:24 267:2,3,20	154:21 156:19
348:15,25 349:15	164:14 482:11	273:7 275:23,25	162:4,23 189:22
349:19 352:14	theft 345:24	282:2 283:24	190:9,14 193:13
353:12 368:22	357:13,13 358:13	289:8,16 293:18	194:7 208:14
370:4,6 378:17	358:20 415:6	293:25 318:19	210:7 224:3 226:7
381:19 387:6	thin 455:10,12	324:19 326:10	226:11,23 227:3
401:7 416:5	thing 128:9,17	329:5,13,15	227:11 228:13
433:14,16 436:25	130:25 137:23	333:16,17 336:25	251:21 266:6
460:6 466:2	204:17 235:17	341:17 342:4,6,13	280:2,11 293:5
470:10 471:7	250:19 251:3,4	346:24 355:18	309:21 311:8
478:24 479:2	308:8 323:19	360:21 365:8,8,11	319:9 326:4,16
tells 230:16 257:9	345:25 347:23	375:6,13 380:8,10	327:15 331:15
267:23 295:11,19	356:12 361:19	381:21,25 382:15	333:4 338:15
329:8 354:13,14	371:19 381:7	382:16 385:12	343:13 348:20
364:22 368:12,16	391:4 402:8,10	392:20,22 395:11	352:16 358:23
409:24 412:20	412:15 453:15	395:13,13,25	359:24 371:8
415:8 418:25	462:13	396:4,6 404:2,24	372:5 376:11
432:18 435:11	things 182:15	410:20 414:12	396:14,22,23
453:16 470:15	249:23 288:16	417:2,5,8,15	407:18 408:13
	289:17 337:25	418:21 419:2,6	426:2,6,16 455:17

[thompson - tires]

Page 48

456:3,9 457:22	threats 128:13	444:11 465:24	294:19 296:4,8,9
480:2,10 481:2,6	221:9 296:14,25	468:19 472:23	310:5,8 311:6
481:14,19 482:5	334:9 377:8	475:6,25 477:10	316:19 318:25
482:10,22 484:5	three 149:6,13	477:23 478:4,9	330:20 333:19
thought 140:10,11	158:12 159:16	479:9,14,20,21	336:8 346:11,17
159:9 196:13	239:24 255:8,9	ticket 133:2,2,4	346:17,18 347:16
215:19 217:7	308:25 316:18	164:12,14 171:17	352:9 358:9,9
229:4 376:19	325:16 345:15	215:15 236:19	362:15 365:14,18
378:11 409:16	370:14,16,23	277:4 433:13,15	366:15 368:12
420:21 425:6	371:3 376:23	437:9 438:18	369:23 378:21
429:10 454:7	409:5 411:20	478:14,15	391:24 395:15
460:24 461:9,16	414:9 432:15	tickets 133:5	397:5,8 398:24
462:24 470:13	440:23 444:15	163:13 164:2,3	403:3,5,6,11,18
thousands 237:25	445:6	276:19 277:9	404:4 418:16,18
threat 141:17	threw 231:15,22	tieg 235:7	422:2,5 424:13
210:20 211:10	241:7 242:8,11	tilman 247:20	425:2 426:8,11
220:4 221:17	272:22 277:21	248:8	446:20 448:11
222:7,22 357:22	283:14,18 289:20	time 127:2 129:15	453:24 470:6
threatened 204:9	292:11 304:6,9,12	131:24 143:7,16	472:13,18,19
threaten 203:4,8	322:14 335:14,15	159:19 161:6	479:7 483:11,12
203:21 205:24,25	338:6 428:4,5	164:24 166:11,15	times 127:19
207:10,11 208:6	464:13 465:16,18	166:16 174:20	129:11 243:3
216:11 222:25	466:19 468:4	177:2,11 179:11	274:16 283:17
275:4,6,7,9,12,13	469:14 474:24	190:2,6,16,19	345:16 346:7
275:16 284:14,20	throw 235:17	195:6 196:10,10	354:4 395:23
473:13,17	241:10 242:10	197:20 206:7	423:11,11 459:21
threatened 179:25	245:19 291:9	223:10,13,14	460:19
200:14 203:17	292:13 302:9	224:20,21 225:23	timing 397:12
204:21 205:23	304:15 306:24,24	227:6,9,19,22	tirade 280:19
223:18 225:6	320:23 321:3	229:12,13,21	tired 293:14,15,16
274:25 363:4,13	332:13 335:22	233:12,23 234:8	402:15 452:10,11
365:6 377:12	385:5 414:6	235:16 238:14	463:19
381:8	throwing 283:22	239:12 240:4,6,13	tires 361:22 362:3
threatening 203:3	339:17	240:14,15 242:5	362:9 363:6,14
205:3 208:4 275:5	thrown 166:16,18	242:15 250:16	364:24 365:21
334:8 339:5,11	245:20 263:7,8,18	252:20,22 261:25	367:8,14,15
352:20 382:9	289:17 290:24	262:2 264:3,4,7,8	368:14,17,23
388:15,16 412:12	301:7 333:14,15	264:14 266:16,20	373:22 375:11
414:18	341:8 407:13	267:10 269:25	377:13 379:17
threatens 387:20	421:10 428:18	270:11 271:3	382:4,13
	439:13 440:8	276:8 285:24	

[today - truthful]

Page 49

today	178:22 184:12 313:9,12 313:19 314:3 318:10,15,18 350:2	358:3 362:16,24 363:8,12 365:25 366:3 367:16 374:2,17 375:3,10 377:10 381:13,15 382:3,5 389:6	211:20,22 248:5 towering 203:2 204:25 track 326:13 traffic 196:25 210:17 341:3	376:23 tried 146:20 147:9 147:13 148:24 158:22 173:10 203:14 225:23 255:21 270:23 290:25 301:17 466:13
told	131:12 134:6 134:7,12 135:23 141:7 142:2 147:14 152:13,20 155:24 156:17 157:8 182:13,18 191:20 198:3 199:22 204:24 212:10 213:10 216:13 220:12 231:19 232:13 243:14 247:7 258:20 260:17 261:23 272:15,19 273:2,22 277:22 278:12 280:19 283:17 286:10 287:7 290:6,8,17 291:3,10 295:2 299:8,21 302:18 303:21 306:22 307:5,21 309:12 310:16 311:16 314:7,17 320:2,20 320:23,24,25 321:15,16,18,20 322:13 328:15,16 328:17 329:6 335:25 336:16 337:23,25 338:2,2 338:5 339:15,18 339:23 341:5,7,23 344:15,21 345:18 349:6,16 355:25 356:5,5,24 357:24	393:6 395:14,20 396:12 400:7 404:15,17,17 406:13 408:25 418:23 422:22 424:9,17 428:21 440:5 450:6 460:5 464:6 467:2 468:21 470:6,7 471:23 476:18,22 478:7	285:6 trained 286:3 403:10 training 284:16 285:24,25 403:2,5 403:19 transactions 277:5 transcript 253:12 480:8 transcription 488:10 transcripts 480:13 transferred 282:22,22 translated 165:5,5 translation 165:8 translator 197:12 197:16 198:19 199:10 transpired 196:24 traschen 134:7 136:21 138:23 244:22 246:9 263:15 265:2 382:22 444:10 477:9 478:11 treat 148:13 246:18,19,19 342:7,16 448:17 treated 141:13 179:22,24 427:8 427:22 428:11,13 treating 342:10 trial 125:15 341:12 375:22	171:22 176:14 179:7 183:21 198:2 200:2,3,16 200:22 239:15 244:18,19,20,24 245:2 246:3,4,6,7 246:12 248:15 260:16 267:8 277:18 283:13 284:9 285:9 286:13 289:15,19 289:25 290:4,5,6 292:11 298:20 307:18 318:12,13 366:6 379:24 403:25 427:19 431:3,4,5,8,21 471:12,15 488:9 truly 423:24,25 469:8 trust 128:5 339:19 339:19 truth 147:9,14 150:17 158:21 159:2 174:5 201:21 212:17 219:17 230:2 265:3 273:18,19 319:2 320:25 384:18 truthful 267:25 384:17,18

[try - usually]

Page 50

try	138:17,20 182:21 212:18 217:21,22 317:16 318:19 329:5	296:16 299:17 300:13 308:9,13 315:11 316:6 317:12 321:22	322:2 325:17,21 326:25 327:2,3 332:6 333:18,19 333:23 335:16,23	unfounded
trying	130:8 140:12,13,14 141:2 157:18,22 158:7,13 161:18 161:20 163:14,16 163:17 168:25 169:6 171:12 173:5 174:24 175:2 177:21 182:23,25 185:9 213:12 225:20 245:6,15 251:15 303:8 305:10 319:7 354:13 355:17 412:13,15 412:16 414:25 418:5 420:10 423:20 463:23	330:3 334:4,23 337:21 340:20 342:5,20 365:10 369:10 376:21 388:9 398:11 404:5 405:10 406:8 412:8 416:22 417:13,14 418:9 439:15 442:20 464:24 471:19 472:16 473:4,23 474:6,14 475:15	337:25 341:8 342:2,9 345:15 346:9 428:5 451:4 469:20,23	unruly
			type	130:17 131:4 135:17 136:10 150:25 178:16 195:23,24 213:23 232:17 238:5,5 239:6,9 251:8 351:4 353:10 390:9 457:15,16
			types	435:3,3
			u	
			um	434:24
			un	226:2
			unbiased	426:24
			undersigned	210:15
			understand	129:8 139:15 140:15 158:24 159:5 163:19 166:24 168:25 177:13 182:12 192:22 245:6 289:22,23 290:12 302:17 317:23 348:16,17 351:11 384:22 390:5,14 394:21 396:22 406:2 418:3,11 419:23 438:7 465:4,6 476:5
				314:9 329:9 370:21 371:5 451:13 453:13 463:23 479:7
				use 148:16 153:16 250:6 262:16,23 287:16 288:4 297:7 306:21 334:10 384:7 390:7,11 394:19 419:17 421:16 449:7 453:21 454:2 464:9
				uses 436:23 453:22
				usually 154:13 326:13

v			
v 489:5	307:13 377:17 381:7 393:23 400:14,15 406:10 406:11 407:11,14 458:17 469:22 473:6 474:7	viewing 477:10,11 477:13 violation 341:3 violations 210:17 376:24 violence 200:14 203:17 204:10,21 308:12 334:9 339:6 343:3,5 486:7,19 violent 202:25 204:25 206:11 321:21 virtual 483:8 vituperative 257:13 voice 141:15 157:4 170:22 314:9 volume 125:22 vulgar 200:13 203:6,16 204:8 vying 133:3	walked 147:8 229:16 231:10 233:6 242:12 250:14 257:4 262:2 267:24 268:20 270:13 273:16 346:7,14 353:13 354:15 355:10 357:5 363:11 378:9 382:10,11 402:13 404:4 462:13 walking 146:20 147:9 148:23 158:22 198:11,13 198:16,21 331:5 353:19 354:12,20 355:2 373:16 374:5 378:22 392:8 432:22 walks 442:23,24 470:14 wall 231:16,18,21 231:23,24 235:18 235:18 245:20 272:23,23 277:17 277:21,24 278:5,8 278:18 282:2,5,15 283:15,18,19 291:19 292:4 wait 156:11 175:13,13,14 176:15 190:2 243:8 320:17 321:7 385:2 waited 321:8,9 walk 149:2,8 152:6 176:12 196:11 199:9 213:8 223:9 230:19 255:8 307:25 330:20 331:2 355:21 362:21 369:10,12 384:23 385:2,3 451:22
w			
videographer	126:14 127:2 144:20,21 190:16 190:19 226:16 227:5,9,18,22 310:4,8 397:4,8 426:8,11 480:6,22 483:5	videotape 138:25 291:19,21,22 292:5,17 347:8 417:10 444:6,8,11	videotaping 154:14 view 171:5,7,8,8 211:9,16 444:7,10
verbally 141:16,17 141:21 156:15 189:2 191:2,20 192:5 305:13			walls 281:4,14 303:11 305:12 306:14 walters 247:24,24 360:18 364:21 wanda 348:3,4,14 352:4,5 486:9

[want - woman]

Page 52

want	150:19,20,24 158:18 168:22 169:23 170:7,12 173:19 180:14,15 184:11 188:12 193:4 199:17 201:16 204:13 205:18 206:16,18 216:10 221:19 222:9 223:11,14 224:22 230:10 234:15 237:17 245:21 249:16,18 276:10 277:6 282:8,16 287:14 303:16 306:3 311:18 314:16 326:14 332:13 345:19,20 351:23 352:2 362:22 363:17 365:4 378:11 388:10,17 388:18,18,23 390:22 409:8 410:3 412:6,8,9,10 415:7,10,17 416:25 418:8 419:20 420:3,5,12 420:24 421:8,9,10 421:19,24 422:16 422:24,25 423:12 423:14,14,15,17 425:8,10 432:10 432:11,12,12,13 432:24 434:8 435:9 436:2 437:19,20,21,22 437:24 438:3,4,5,8 438:20,20 439:12 439:13,14,15,15 439:16,17,18,20	441:16,23,25 452:11,20 457:7 469:3 480:7 481:13 wanted 132:25 141:20 145:2 173:20 174:14,18 175:14,15 232:23 233:18,25 241:18 249:19,21,23 250:2 251:17 259:16 277:10 285:3 290:18 342:5,17 357:19 357:20 365:25 375:14 395:12 417:5,6,16 421:10 421:11,12 422:25 424:12,15,20,25 425:6,7,7,12 439:6 463:17,18 wants 281:8 291:13 377:24 378:17 387:5 388:11,21 438:16 441:12,21 warn 300:12 427:25 warned 298:18,25 299:16 339:4 404:16,20,25 427:17 warning 427:21 warnings 300:16 warrant 242:23 warranted 334:21 waste 391:24 watch 331:3 watching 379:12 379:15,16,16	way 132:2,9 149:25 173:8 202:5 210:4 233:11 239:14,18 239:20,22 251:24 253:16 259:19 261:15 289:5 295:17 303:23 317:21,22 320:22 321:2 330:16 331:6,11 339:17 366:23,24 367:25 368:4 411:24 414:5 443:18 ways 357:4 we've 223:24 271:15 297:14 301:23 380:16 381:3 469:17 wearing 248:14 website 410:21 411:4 wednesday 301:2 week 328:11,11,13 347:6 408:25 weekend 181:14 184:10 217:14 weeks 316:13 408:7 409:5 440:24 welcome 263:9 295:2,11,22 303:22 307:21 310:17 went 163:12,25 196:3 197:11 198:4 229:16 240:6,7 242:24 244:12 267:14 277:16 319:20,20 328:11 329:17,18	329:19,20,23 337:23 363:21 378:10,12 379:9 383:18 393:18 408:6 416:3 440:8 whatsoever 196:17 434:4 wide 230:6 241:14 255:6,11 451:2 width 255:7 willing 423:21 willinger 464:13 464:14,16,21,23 465:2 467:10,25 468:9,18 469:14 win 140:13 247:18 247:21,25 window 168:15 winds 465:10 winning 460:22 wish 185:20 300:17,18 withdraw 132:8 250:23 witness 226:9 309:25 396:20 397:2 443:11 480:18,25 481:21 482:6,12 483:3 488:7 witnessed 249:6 462:5 witnesses 386:13 wives 328:5 woman 146:4,11 148:13 149:9,18 152:7 156:4 158:7 158:19,23 159:4 159:11,14,23 160:13,25 169:14 171:4 174:20,22
-------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

[woman - wrong]

Page 53

179:24 198:13	work	130:17	422:12 438:25	270:16 272:8
204:12 205:25		131:23 135:10	439:3	273:9 277:15
206:17 207:10,11		151:25 153:4	worst 128:9,16	280:18,25 283:5
207:22 215:20		161:13 164:9,10	306:18 378:2,4	284:6 286:8 287:6
216:22,23 217:8,9		166:3 197:7,9,11	worth 380:17	293:20 296:11
217:20 219:3		197:13 198:4	wound 469:5	300:25 301:14
250:15,18 297:18		199:5 201:17	wrap 480:23	303:2 305:6
298:16,22 299:20		218:8 274:16	write 150:18,19	311:20 316:13
300:5 306:11		288:19,20,23	204:15 214:16	340:24 344:5
345:18 394:4		317:21,22 327:3	215:2 232:15	364:15 373:6
403:15		328:4 329:20	252:15,16 258:18	376:22 377:5,14
women 148:13		332:19 343:3,5	258:23 262:5	392:7 454:6
153:16 160:11		354:21 355:3	263:11,16,18	458:13 460:12
170:4		360:11 384:5,8	264:24 266:4	461:25 462:2
won 461:16		422:25 423:14	279:23 280:8	463:3 464:11
word 169:24,25		425:8 437:22	288:10 304:17	466:25
170:6,10,11		439:16	307:9 326:14	writing 134:6,8
216:10,12 243:19	worked	165:4	351:21 360:25	190:7 243:9 300:7
243:20 262:16,24		167:16 168:2,2	361:10,24 369:23	378:25 415:11
287:2,13,16 288:5		195:12 197:12,21	383:5,21,22,23	446:22 448:18
330:11 331:4,9		253:7 288:18,23	387:3 410:18	written 133:5
337:9 380:8 398:4		324:11	420:8 426:20	142:8 144:5,7
398:22,22 399:7	workers	330:2	428:19 429:17,18	146:6 151:6 156:7
399:17 400:5,6,7	working	128:21	439:8,9,23 449:8	202:14 222:20
400:16 401:10		137:10 187:5	writes 147:17	249:19 271:16
403:23 404:9		206:19 235:22	148:19 157:7	303:23 307:9,12
405:23 406:14,15		239:19 288:21,22	159:24 164:16	312:12 333:14
407:16,17 450:4,5		354:16 387:15	168:12 171:15	340:14 368:2
450:5 453:6,22,22		421:11 433:4	175:4,5 176:9,10	370:13 381:4
454:4,5 460:3,7		437:15 438:18	179:12 183:10	wrong 147:12
472:7,9 473:7		439:6 479:10	185:15 196:21	160:12 170:5
words 176:17	workplace	486:7	199:18 200:11	177:4 205:9
181:3,4,4 183:18		486:19	204:23 206:8	220:17,17 222:6
208:5 256:14	works	183:11	229:15 238:11	222:15,17,23
260:21 262:23		228:20	239:11,23 240:23	224:18 227:17
270:8 313:21	world	260:6	241:4 242:20	278:16 286:18,19
344:7 361:25		306:19 378:3	244:11 250:5	300:22 308:20
380:3,4,6,9 400:24	worried	405:6,17	255:15 257:11	320:22 321:2
401:7 404:11		406:5,9,11,22,24	260:12 261:13	330:16 331:11
412:3 430:25		415:21 416:12,20	262:6 263:22	339:17 377:16
443:7 454:3 464:9		419:16 422:7,10	264:15 269:12	382:14 389:8

[wrong - zoom]

Page 54

400:18 414:5 wrongfully 328:17 wrongly 170:23 wrote 152:3 218:5 218:5,7,18 219:12 219:13,15 222:24 248:20,23 267:20 298:3 348:3 352:7 352:25 356:7 371:19 375:24 398:4 413:22 414:8 415:20 416:19 417:24 418:7 419:14 420:11,12,16,20 420:23,25 421:6,6 421:8,23,23 422:7 422:23 423:8,19 424:10,14,22,24 433:9 434:7 442:16 443:2,15 443:19,21,24 444:24 445:12 447:22 448:23 449:21 450:17	233:6 244:25 245:3 252:11 261:11,19 262:14 262:14,16 263:21 264:5,22 275:25 276:4 279:11,16 279:19 281:11 284:22 294:4 312:25 314:14 323:14 324:6,10 336:25 337:8,11 342:6 347:22,24 348:7,11,12 352:24 353:3,8,18 359:9 371:18,22 372:4,21,22 373:20 384:4,5 389:23 402:25 408:9 411:22 430:15,21 434:6 442:23 449:24 450:3 457:21 461:2,17 468:12 474:20 480:18 year 134:25 319:23,23,24,24 319:25 320:17 321:7 338:3 353:11 358:7	yelled 148:8 171:24 180:24 184:24 202:6 219:5 453:9 yelling 146:19 147:3,19 149:15 149:16 150:12 157:21 158:8,11 159:17 160:4,7 168:18 171:20 172:6 215:24 216:8 218:23 311:22 361:16 407:8 453:6 462:6 469:21 471:15 yesterday 154:23 188:22 190:22 248:12 295:17 431:7,24 444:21 yesterday's 480:11 york 125:2,20 126:5,8,10,10 131:6 230:8 409:13 410:25 411:3 427:7 489:2 489:4 younger 403:4 yup 373:4
x		z
x 125:4,11		zealous 174:7 180:7 zealously 136:14 136:17,18 141:19 174:9 187:7 zeros 209:12 zoom 347:25
y		
yaakov 142:2,18 228:4,8,19 232:12 236:9 239:5 246:10 281:19 310:16 431:11 485:2 yeah 127:17 130:7 144:15,24 156:8 162:10 169:13,19 176:7 183:14 193:22 198:25 209:13,17 230:2	yell 148:3 150:21 181:2,9 219:6	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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